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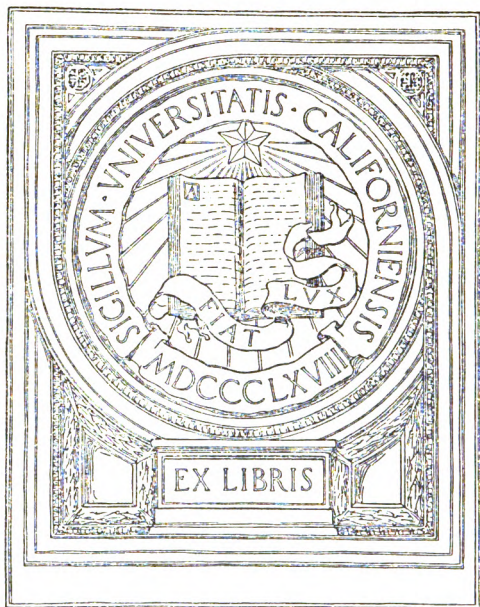
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# REPUBLICAN LANDMARKS.

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THE

VIEWS AND OPINIONS

Of American Statesmen

ON

FOREIGN IMMIGRATION.

BEING A COLLECTION OF STATISTICS

OF POPULATION, PAUPERISM, CRIME, ETC.

WITH AN INQUIRY INTO THE TRUE CHARACTER OF THE UNITED STATES GOVERNMENT,  
AND ITS POLICY ON THE SUBJECT OF IMMIGRATION,  
NATURALIZATION OF ALIENS, ETC.

BY JOHN P. SANDERSON.

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PHILADELPHIA:  
J. B. LIPPINCOTT & CO.  
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## P R E F A C E.

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It would, perhaps, be deemed presumptuous in the writer of the following pages to solicit public attention to them without stating some of the reasons which induced him to undertake the task, or, at all events, explain the object at which he has aimed in its execution. Many reasons might be adduced by him for engaging in the preparation of this volume. Let it suffice, however, to say, that the object aimed at by him was, to give the opinions of others, not his own—in a word, to present facts, historical and otherwise, showing the progress of immigration, the extent of the immigrant population, its tendencies and influences, and its general effects upon the country and its institutions; and, also, to exhibit an outline of the true principles and the distinguishing characteristics of the United States Government, and the views and opinions of its founders, as well as the policy of the government on the subject of immigration, naturalization of aliens, etc.

With the hope that the facts thus presented to the American people may, in some degree, contribute to correct misapprehensions, prevailing to a considerable extent, in relation to the subjects discussed in this volume, it is now, with great diffidence, and a full conviction of its imperfections, submitted to the public by

THE AUTHOR.

*Philadelphia, December 1, 1855.*

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## REPUBLICAN LANDMARKS.

## CHAPTER I.

## WHITE AND FREE COLORED POPULATION.

THOUGH repeated efforts were made, by the Continental Congress, to obtain an enumeration of the inhabitants of the United Colonies, no accurate enumeration was had prior to the adoption of the Federal Constitution. It is the better received opinion now, however, that at the beginning of the Revolution the population of the Colonies did not exceed two millions, eight hundred thousand. Since the formation of the United States Government there have been seven enumerations of the inhabitants, the periods and aggregate results of which were as follows: Three millions, nine hundred and twenty-nine thousand, eight hundred and twenty-seven persons, in the year 1790; five millions, three hundred and five thousand, nine hundred and twenty-five persons, in the year 1800; seven millions, two hundred and thirty-nine thousand, eight hundred and fourteen persons, in the year 1810; nine millions, six hundred and thirty-eight thousand, one hundred and thirty-one persons, in the year 1820; twelve millions, eight hundred and sixty-six thousand, and twenty persons, in the year 1830; seventeen millions, sixty-nine thousand, four hundred and fifty-three persons, in the year 1840; and twenty-three millions, one hundred and ninety-one thousand, eight hundred and seventy-six persons, in the year 1850.

The following table, collated from the Census returns of 1850, exhibits the aggregate white and free colored population of each State and Territory—the number of white and free colored foreigners, and of those of unknown birth, and the ratio of the foreign to the white and free colored, and of the free colored to the total population, in each State :





The proportion of foreign to white and free colored native, in different sections of the country, may be stated to have been as follows, in 1850 :

|                                    |                |
|------------------------------------|----------------|
| Eastern States,.....               | 12.65 per cent |
| Middle States,.....                | 19.84 " "      |
| Southern States,.....              | 1.86 " "       |
| Southwestern States,.....          | 5.34 " "       |
| Northwestern and Territories,..... | 12.75 " "      |

Of the native white population, 13,103,650 still resided in, and 4,176,225 resided out of the States in which they were born. Connecticut, South Carolina and Vermont, had more than half as many native born residing in other States, as remained at home; Virginia, North Carolina, Kentucky and Tennessee, nearly one-half, and Massachusetts, New Jersey and Maryland, about one-third. No less than 726,450 persons were living in slave-holding States, who were natives of non-slave-holding States, and 232,112 persons living in non-slave-holding States, who were natives of slave-holding States. Whilst more than one-fourth of the free persons born in the Southern States had left those States for other parts of the Union, only one-sixth had left the Eastern and Middle States, about one-tenth the Southwestern, and one-fortieth the Northwestern and the Territories. The following table, taken from the Census of 1850, will explain this fact more fully :

| STATES.                       | Natives, white and free colored, residing in the State where born. | Ratio per cent. | Residing out of the State in which they were born. | Ratio per cent. |
|-------------------------------|--|-----------------|--|-----------------|
| Eastern,                      | 2,867,932  | 83.91           | 453,891  | 16.09           |
| Middle,                       | 5,155,698  | 83.85           | 993,198  | 16.15           |
| Southern,                     | 2,266,088  | 73.10           | 833,775  | 26.90           |
| Southwestern,                 | 1,441,220  | 89.73           | 164,889  | 10.27           |
| Northwestern and Territories, | 3,962,518  | 97.58           | 96,369   | 2.42            |

Of the foreign white population, numbering 2,240,535 persons, in the United States, in 1850, there were from Ireland 961,719, being over forty-two per cent. of the whole number; from Germany, 583,774, being over one-fourth of the whole number; and from England, 278,675, being near one-eighth of the whole number. The Irish, German, and English, it will be thus seen, constituted considerably over two-thirds of the entire foreign population. Of the remainder, 147,711 were from British America; 70,550 from Scotland; 54,069 from France; 29,868 from Wales; 13,358 from Switzerland; 13,317 from Mexico; 12,678 from Norway; 9,848 from Holland; 5,772 from the West India Islands; 3,645 from Italy; 3,559 from Sweden; 3,113 from Spain; 1,838 from Denmark; 1,543 from South America; 1,414 from Russia; 1,313 from Belgium; 1,274 from Portugal; 946 from Austria; 758 from China; 588 from the Sandwich Islands; 141 from Central America; 106 from Turkey; 86 from Greece; 34 from Sardinia; and the balance from other countries,

and unknown. Of the immigrants who arrived in 1851 and '52, there were 278,793 Irish; 188,009 German; 59,828 English; 14,942 Scotch; 14,842 French; 10,954 Swiss; 4,720 Welsh; 4,001 Norwegian; 3,012 Hollanders; 2,938 Swedes; 976 Italians; 840 West Indian; 557 Belgians; 728 Spaniards; 341 South American; 328 Poles; and the remainder in small numbers from other countries. During the first six months of 1855, there arrived at New York 69,476 immigrants, 22,801 of whom were Irish, and 26,824 German.

But few of the Irish appear to be engaged in agricultural pursuits; they are chiefly in the commercial and manufacturing States. Of the 961,719 in the country in 1850, there then were 857,345 residents in the free States and Territories, being about 88 per cent. of the whole number; and of those there were 196,609 in the manufacturing States of New England, being 23 per cent. of the number in the free States. In the commercial and manufacturing States of New York, New Jersey and Pennsylvania, there were 525,926, being within a fraction over 61 per cent. of the number in the free States, and leaving but 134,810 scattered over the agricultural States and Territories of the West and Northwest, being only about 16 per cent. of the number in the free States and Territories, and the greater portion of those were probably engaged as laborers on canals and railroads. Of those in the slave States, numbering 104,374, there were 70,200 in the States of Louisiana, Maryland, Missouri and Virginia, being 69 per cent. of those in the slave States.

So with the English; they, too, were mainly in the Eastern, Middle and Northwestern States. Only 25,575 of the whole number were in the slave States, 19,211 of whom were in the States of Virginia, Maryland, Louisiana, Missouri, Kentucky and Texas. Those in the free States numbered 253,100, of which number 31,240 were in the New England States, being 12 per cent. of the number in the free States; 134,245 in the Middle States of New York, New Jersey and Pennsylvania, being 53 per cent.; 87,615 in the Western and Northwestern States, being only 35 per cent., of which number 25,660 were alone in Ohio.

The Germans were found in greater numbers in the agricultural States, and but comparatively few of them in New England. Of the number in the country, 456,439 were in the non-slave-holding States, and only 127,335 in the slave States. Of those in the free States, only about 7,000 were in the six New England States, being but one out of every sixty-six of their number in the free States. In the Middle States of New York, New Jersey and Pennsylvania, there were 210,360, being over 46 per cent. of the number in the free States; in New York alone, there were 120,609, being near one-fourth; and in the Western and Northwestern States and Territories about 240,000, being over 50 per cent., of which 112,022 were in Ohio. Of the 127,335 in the slave States,

of whom 58,854 were in the States of Missouri and Kentucky, being nearly one-half of those in the slave States.

The Hollanders, Norwegians, Swiss and Swedes, were principally in the agricultural States and Territories in the West and Northwest. Two-thirds of the Norwegians were in Wisconsin, and one-fifth in Illinois; one-third of the Swedes were in Illinois; one-fourth of the Swiss in Ohio, and one-third in Illinois and Wisconsin; and about two-thirds of the Hollanders were in Iowa, Michigan, Wisconsin and New York. The French were principally in New York, Pennsylvania, Louisiana and Ohio. One-half of the Mexicans were in California, one-third in Texas, and one-tenth in New Mexico. Of 30,000 Welsh, 25,000 were in New York, Pennsylvania, Ohio and Wisconsin. One-third of the Scotch were in New York, one-tenth in Pennsylvania, and about one-seventh in the New England States.

That a large part of the foreign born population resides in the cities and towns, may readily be perceived by examining the following table, showing the number of inhabitants, native and foreign, of the cities therein named :

| FREE STATES.        | NATIVE. | FOREIGN.  | SLAVE STATES.               | NATIVE. | FOREIGN.  |
|---------------------|---------|-----------|-----------------------------|---------|-----------|
| New York, .....     | 277,752 | 235,733   | Baltimore, .....            | 130,491 | 35,492    |
| Philadelphia, ..... | 286,346 | 121,699   | New Orleans, .....          | 50,470  | 48,601    |
| Boston, .....       | 88,948  | 46,667    | St. Louis, .....            | 36,529  | 38,397    |
| Cincinnati, .....   | 60,558  | 54,541    | Washington, .....           | 33,530  | 4,282     |
| Albany, .....       | 31,162  | 16,591    | Louisville, .....           | 25,079  | 12,461    |
| Providence, .....   | 31,755  | 9,679     | Charleston, .....           | 17,809  | 4,643     |
| Chicago, .....      | 13,695  | 15,682    | Richmond, .....             | 15,441  | 2,102     |
| Newark, .....       | 26,561  | 12,322    | Mobile, .....               | 9,565   | 4,086     |
| Detroit, .....      | 11,055  | 9,927     |                             |         |           |
| Portland, .....     | 17,265  | 3,512     | Total, .....                | 318,914 | 150,064   |
| New Haven, .....    | 16,641  | 3,697     |                             |         |           |
| Milwaukee, .....    | 7,181   | 12,782    | Aggregate, .....            |         | 468,978   |
| Total, .....        | 866,917 | 542,832   | Aggregate population, ..... |         | 1,880,727 |
| Aggregate, .....    |         | 1,411,749 | Native, .....               |         | 1,187,831 |
|                     |         |           | Foreign, .....              |         | 692,896   |

It will be thus seen, that almost one-third of the entire foreign population in the country resided in the twenty cities named in the foregoing table, while they contained but about the fifteenth part of the native population of the United States. Of the 1,924,011 foreigners in the non-slave-holding States, 542,832 were in the cities named in the table; and of the 316,673 in the slave States, 150,64 were in the Southern cities named in the same table.

It will be seen, also, that of the foreign population of the New England States, there were in the cities of Boston, Providence, Portland, and New Haven, no less than 63,555, being over 20 per cent. of the whole number in these States. In the cities of New York, Philadelphia, Newark, and Albany, there were 386,345, being 38 per cent. of the foreign population of the three Middle States of New York, Pennsylvania, and New Jersey.

In Cincinnati, Chicago, Detroit, and Milwaukee, there were 92,932, being 17 per cent. of their number in the Western and Northwestern States, comprising Ohio, Indiana, Illinois, Michigan, Wisconsin, and Iowa. In the cities of St. Louis and Louisville, there were 50,858, being 43 per cent. of the number in the Southwestern States of Kentucky, Missouri, Tennessee, Mississippi, and Arkansas. In the cities of Baltimore, Richmond, Charleston, Mobile, and New Orleans, there were 94,924, being 54 per cent. of those in the Southern Atlantic States of Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, and Louisiana.

An examination of the Census returns of 1850, will disclose these facts: That near 40 per cent. of the foreign population then in the State of New York, resided in the cities of New York and Albany; that over one-fourth of those in Massachusetts were in Boston; that there were 40 per cent. of those in Rhode Island, in Providence; that about one-sixth of those in Connecticut, resided in the cities of Hartford and New Haven; that the city of Newark alone had one-fifth of those in New Jersey; and Philadelphia about 40 per cent. of those in Pennsylvania. So in the Southern States. Mobile had about 60 per cent. of the foreign population of Alabama; New Orleans, over 70 per cent. of those in Louisiana; Savannah, about 37 per cent. of those in Georgia; Charleston, considerably over one-half of those in South Carolina; Louisville, near 40 per cent. of those in Kentucky; St. Louis, over one-half of those in Missouri; Nashville and Memphis, over 40 per cent. of those in Tennessee; Baltimore, about 67 per cent. of those in Maryland; and Wilmington, about one-third of those in Delaware. And the same may be said of the Western States. Of those in Ohio, over one-fourth were in Cincinnati; of those in Illinois, over one-eighth in Chicago; of those in Michigan, about one-sixth in Detroit; and of those in Wisconsin, over one-ninth in Milwaukee.

A still further and more minute examination of the Census statistics of 1850, will disclose the fact, that of the 196,609 born in Ireland, residing in the New England States, there were over one-fourth of them in the cities of Boston, Portland, Providence, Portsmouth, Hartford, New Haven, and Manchester; of the 525,926 residing in the States of New York, New Jersey, and Pennsylvania, 224,685 of them were in the cities of New York, Philadelphia, Newark and Albany, being over 40 per cent.; and of those in the other non-slave-holding States, numbering 134,810, there were 26,594 in the cities of Cincinnati, Chicago, Detroit, and Milwaukee. Of the 104,374 in the slave States, 50,062 were in the cities of New Orleans, Baltimore, Charleston, Louisville, Savannah, Nashville, Memphis, Richmond, St. Louis, Washington, and Wilmington.

Of those from Ireland, residing in Massachusetts, nearly one-third

were in Boston; of those in Maine, one-sixth were in Portland; of those in Rhode Island, about one-half were in Providence; of those in Connecticut, one-fifth were in Hartford and New Haven; of those in New York, over 40 per cent. were in New York and Albany; of those in New Jersey, over one-sixth were in Newark; of those in Pennsylvania, nearly one-half were in Philadelphia; of those in Ohio, over one-fourth were in Cincinnati; of those in Illinois, near one-fourth were in Chicago; of those in Missouri, over two-thirds were in St. Louis; of those in Michigan, near one-fourth were in Detroit; of those in Maryland, almost two-thirds were in Baltimore; of those in Louisiana, over 80 per cent. were in New Orleans; of those in South Carolina, over one-half were in Charleston; of those in Alabama, two-thirds were in Mobile; of those in Kentucky, one-third were in Louisville; of those in Tennessee, nearly one-half in Nashville and Memphis; and of those in Georgia, one-half in Savannah.

The *Germans* in the New England and Middle States were also principally in the cities and towns. Of the 7,000 in New England, about 2,500 were in the cities of Boston, Hartford, New Haven, Providence, Portland, and Portsmouth; of the 210,380 in the Middle States of New York, New Jersey, and Pennsylvania, 85,859 were in the cities of New York, Philadelphia, Albany, and Newark; of those in the free States of the west, about one-fifth were in the cities of Cincinnati, Chicago, Detroit, and Milwaukee; and of the 127,335 in the slave-holding States, over one-half were in the cities of Baltimore, Richmond, Washington, Wilmington, Charleston, Savannah, Mobile, New Orleans, St. Louis, Louisville, Memphis, and Nashville. Of those in Massachusetts, over 40 per cent. were in Boston; of those in New York, about one-half were in New York city and Albany; of those in New Jersey, about one-third were in Newark; of those in Pennsylvania, about 30 per cent. were in Philadelphia; of those in Ohio, about 30 per cent. were in Cincinnati; of those in Illinois, about one-seventh were in Chicago; of those in Missouri, about one-half were in St. Louis; of those in Maryland, over two-thirds were in Baltimore; and of those in Kentucky, over one-half were in Louisville; of those in Louisiana, near two-thirds were in New Orleans.

The *English*, *Welsh* and *Scotch*, were chiefly in the cities and towns. One-twelfth of the whole number of English and Welsh, and one-tenth of the Scotch, were in New York city.

The *French*, *Spanish* and *Italians*, were also chiefly in the cities and towns. Considerably over one-fourth of the French were in the cities of New York, Philadelphia, and New Orleans. There were 1,150 *Spaniards* in New Orleans, 303 in New York, 291 in Philadelphia, 144 in Mobile: making an aggregate in these four cities of 1,888, and considerably over one-half of the whole number in the country. Of the *Italians*, 708 were



in New York, 658 in New Orleans, 236 in Philadelphia, 152 in Cincinnati, 134 in Boston, 112 in Louisville, and 101 in St. Louis : making an aggregate in these seven cities of 2,160, and more than one-half of their number in the Union.

A late California authority, quoted by Professor De Bow, in his Census report to Congress, in 1854, estimates the population of that State to be as follows : 215,000 Americans, 25,000 Germans, 25,000 French, 20,000 Spaniards, 17,000 Chinese, 5,000 other foreigners, 20,000 Indians, and 2,500 Negroes : making an aggregate of over 320,000, about one-third of whom are not natives of the United States. Of late years the Chinese immigration has increased immensely, and the number of these pagans is already so great in California as to prove the source of much difficulty, and to be a cause of considerable alarm to its inhabitants. According to a late report of Captain Heurtier, the number of immigrants from Hong Kong to California, up to the 30th of June, 1854, amounted to 45,000 ; to Australia (wives and children included), to 15,000. From January 1st to June 30th, 1854, 10,496 immigrants left Hong Kong for California, and 4,341 for Australia.

Another subject worthy of more attention than it has yet received, is that of the Mormon immigration. In a few years more, Utah will be a flourishing and powerful State, a large majority of whose citizens will be foreigners who are not naturalized and owe no sworn allegiance to the United States. Some statistics have recently been collected concerning the amount of immigration from Great Britain alone to Utah, which has taken place within the last year past, and the aggregate will be somewhat surprising to those unacquainted with the extensive system of proselytizing which the Mormons have now organized throughout Europe. The following is the statement as published, dating from the 27th of November, 1854, to the 26th of April, 1855 :

| SHIP.               | SAILED.       | NUMBER OF PASSENGERS. |
|---------------------|---------------|-----------------------|
| Clara Wheeler,..... | Nov. 27.....  | 422                   |
| James Nesmith,..... | Jan. 7.....   | 440                   |
| Charles Buck,.....  | Jan. 17.....  | 403                   |
| Rockaway,.....      | Jan. 6.....   | 24                    |
| Neva,.....          | Jan. 9.....   | 13                    |
| Isaac Joans,.....   | Feb. 3.....   | 16                    |
| Siddons,.....       | Feb. 27.....  | 430                   |
| Juventa,.....       | Mar. 31.....  | 573                   |
| Chimborazo,.....    | April 17..... | 431                   |
| S. Curling,.....    | April 22..... | 581                   |
| Wm. Stetson,.....   | April 26..... | 293                   |
| Total, .....        |               | 3,626                 |

Of these, 874 were landed in New York, 1,450 in Philadelphia, and 1,302 in New Orleans, from which places they were forwarded to Salt Lake City ; 1,127 of their number were indebted to the Perpetual Immigrating Fund, for the means of immigrating.

A recent Census taken of Boston, shows the population of that city to be 162,629, being an increase since the year 1850, of 23,841 persons. Of this population, there are 86,336 foreigners, including their children under 21 years of age, being considerably over one-half of the entire population of the city proper, and an increase of the foreign population since the Census of 1850, of 22,870 persons. It thus appears that the foreigners outnumber the natives, and that within the last five years, the disproportion in favor of the former has been augmented. It is estimated, however, that a portion of the business population of the city, to the number of 50,000, reside in the vicinity and neighboring towns; and as it is probable that a large majority of them are native born, the native element of the population of Boston still preponderates considerably over the foreign. Of this foreign population, 69,239 are Irish, 4,586 are German, and 12,511 from other countries.

In Wisconsin, according to the returns of the recent Census of that State, there has also been a large increase in the foreign population since the year 1850, especially in the city and county of Milwaukee, as the following table shows:

|                | NATIVE.     | FOREIGN.    | TOTAL. |
|----------------|-------------|-------------|--------|
| In 1855,.....  | 17,638..... | 28,628..... | 46,266 |
| In 1850,.....  | 12,455..... | 18,622..... | 31,077 |
| Increase,..... | 5,183.....  | 10,006..... | 15,189 |

It will be seen that, of every thousand of the population, 618 are of foreign, and but 382 of native birth. In the city, the population is 30,438; foreign 19,621, native 10,827—giving a foreign element of 64½ per cent., or a clear foreign majority of 290 in every thousand votes polled.

The returns of the Census taken in New Jersey, during the summer of the year 1855, show the population of Newark, the largest city in the State, to be 50,711 persons, of whom 28,902 are white natives, 20,584 are foreigners, and 1,230 colored. In Jersey City, there are 12,283 native whites, 9,135 foreigners, and 291 colored natives, and 6 colored foreigners: making an aggregate population of 21,715 persons. Trenton has a population of 13,819, of whom there are 7,395 native adults, and 3,368 foreign adults. Thus we find in these three cities in New Jersey, with an aggregate population of 86,245 persons, no less than 33,087 foreigners, being nearly 40 per cent. of the entire population. In the sixth, seventh and eighth wards, in Newark City, with an aggregate population of 13,939 persons, including 456 colored, there are 8,594 foreigners, being very near two-thirds of the whole population.

## CHAPTER II.

## FOREIGN IMMIGRATION.

"THE right of expatriation," observes the report of the Society established in New York, for the purpose of giving useful information to immigrants, "is a right acknowledged and practiced by all nations, from the earliest ages to the present time. It is a right indispensable to liberty and happiness, and ought never to be surrendered. The free States once established in Asia recognized it; Greece adopted it; the Romans avowed it, and vindicated the right in all its latitude, and the following declaration composed part of their code: 'Every man has a right to choose the State to which he will belong. It is a law of nature that we go whither we list to promote our happiness.'" Without stopping here to inquire whether the right of expatriation is thus broadly and unqualifiedly recognized, even in the United States, it is entirely safe to adopt the opinion expressed by the Rev. D. R. Thomason, Secretary of the Philadelphia Immigrant's Friend Society, in his published "Hints to Immigrants," and to say that "no man ought to quit his native land without just and cogent reasons. It is the land which gave him birth, 'the home of his fathers,' and the filial obligations which bind him to it are strong and sacred; they cannot be needlessly broken, and obligations to a foreign government contracted, without exposing to censure, and incurring a large share of criminality. That there are, however, circumstances which abundantly justify such a step, is sufficiently obvious, and the individual who can refer to them as his own, and plead them as reasons for self-expatriation, may be pitied as unfortunate, but cannot justly be charged with dereliction of duty."

Various reasons may be urged to exculpate self-expatriation, prominent among which is the want of honorable and remunerative employment, as a means of procuring an independent and adequate support. "When the parent is unable to make suitable provision for the offspring, it is time," says Mr. Thomason, "that the needy children should quit the parental roof and seek elsewhere their daily bread;" and he well adds, "that this, at the present moment, is precisely the situation of the mother country, is undeniable." The most obvious and most fruitful cause of this calamity is, no doubt, as he observes, a disproportion between the population and the resources of maintenance. In Europe, there are more hands to labor than profitable labor to be performed, and a remedy for the evil can only be found in a diminution of population by immigration. This is a simple

and efficient remedy not dependent on the plans of politicians and enactments of rulers, but to a great extent on individual will and action. It is within the reach of all who have the requisite courage and enterprise, and the small amount of pecuniary means necessary to transport them across the Atlantic. "It is not, therefore, matter of surprise that the stream of immigration should flow fast from the overcharged basin of European population, in whatever direction a suitable outlet can be found—that thousands should be leaving their native land, and thousands be preparing to follow, to seek in other climes at once a sphere for their talents and industry, and the means of competent maintenance for themselves and families, content to endure temporary inconvenience and privation to secure the substantial and permanent advantages of independence and competence for themselves, and to perpetuate the same blessings to their offspring.

According to a table in *De Bow's Compendium U. S. Census of 1850*, the progress of immigration since 1790, has been as follows :

| YEARS.                  | ARRIVALS. |
|-------------------------|-----------|
| From 1790 to 1800,..... | 50,000    |
| " 1800 to 1810,.....    | 70,000    |
| " 1810 to 1820,.....    | 114,000   |
| " 1820 to 1830,.....    | 135,986   |
| " 1830 to 1840,.....    | 579,370   |
| " 1840 to 1844,.....    | 334,377   |
| " 1844 to 1855,.....    | 2,523,758 |

According to this statement, collated from the reports of the Collectors of the Ports of Boston, New York, Philadelphia, Baltimore, and other seaports, the number of immigrants arrived, during the last eleven years past, exceeds two millions and a half of persons. Enormous as has been the increase, the number actually arrived is no doubt much greater ; and this opinion is sustained by the following table, compiled from the reports to Congress, made annually by the Secretary of State, under the act of 1819, which shows the number of passengers arrived in the United States from foreign ports, from October 1, 1843, to January 1, 1855 :

|                           | MALES.    | FEMALES.  | SEX NOT STATED. | TOTAL.    |
|---------------------------|-----------|-----------|-----------------|-----------|
| From Sept. 30, 1843,..... | 48,397    | 35,867    | .....           | 84,764    |
| " Sept. 30, 1844,.....    | 69,188    | 49,290    | 1,400           | 119,804   |
| " Sept. 30, 1845,.....    | 90,973    | 66,778    | 897             | 158,648   |
| " Sept. 30, 1846,.....    | 134,750   | 96,747    | 1,057           | 232,554   |
| " Sept. 30, 1847,.....    | 126,128   | 92,883    | 472             | 229,843   |
| " Sept. 30, 1848,.....    | 179,253   | 119,915   | 442             | 309,610   |
| " Sept. 30, 1849,.....    | 88,282    | 27,107    | 181             | 66,570    |
| " Dec. 31, 1849,.....     | 200,903   | 113,392   | 1,038           | 315,333   |
| " Dec. 31, 1850,.....     | 245,017   | 163,745   | 66              | 408,828   |
| " Dec. 31, 1851,.....     | .....     | .....     | 398,470         | 398,470   |
| " Dec. 31, 1852,.....     | 236,596   | 164,181   | .....           | 400,777   |
| " Dec. 31, 1853,.....     | 284,887   | 175,587   | .....           | 460,474   |
| Total, .....              | 1,664,874 | 1,105,492 | 404,029         | 3,174,395 |

By a published statement of the New York Commissioners of Immigration, it appears that, during the first six months of the year 1855,

there arrived at that port but 69,476, being a decrease, as compared with the same period of the year previous, of 65,275.

It appears from these statistics that the immigration, previous to the year 1840, was comparatively small, and that there was no material increase until 1846, when the Irish exodus commenced. It then rose to 300,000 per annum, and now, with the aid of similar exoduses from Germany, China and other countries, it has swelled to a half million a year. Mr. Kennedy, the Superintendent of the Census, in his report to Congress, in 1861, makes the following estimate of the accessions to our population from immigration, from 1790 to 1850 :

|   |           |
|---|-----------|
| Arrived from 1790 to 1810,.....   | 120,000   |
| Increase,.....  | 47,660    |
| Arrived from 1810 to 1820,.....   | 114,000   |
| Increase of the above,.....   | 19,000    |
| Increase from 1810 to 1820, of those arriving previous to 1810,.....                | 58,450    |
| Immigrants and their descendants in 1820,.....                                      | 359,010   |
| Arrived from 1820 to 1830,.....   | 203,979   |
| Increase of the above,.....   | 35,728    |
| Increase from 1820 to '30 of immigrants and descendants of immigrants, in 1820,.... | 134,130   |
| Immigrants and descendants of immigrants in 1830,.....                              | 732,847   |
| Arrived from 1830 to 1840,.....   | 762,369   |
| Increase of the above,.....   | 129,602   |
| Increase from 1830 to '40 of immigrants and descendants of immigrants, in 1830,.... | 254,445   |
| Immigrants and descendants of immigrants, in 1840,.....                             | 1,879,263 |
| Arrived from 1840 to 1850,.....   | 1,521,850 |
| Increase of the above,.....   | 183,942   |
| Increase from 1840 to '50 of immigrants and descendants of immigrants, in 1840,.... | 719,361   |
| Immigrants since 1790, living in 1850, and descendants of immigrants,.....          | 4,304,416 |

Professor De Bow, in his Compendium of the Census of 1850, expresses the opinion that Mr. Kennedy's estimate is too high, and gives it as his own that the immigrants and descendants of immigrants did not exceed, in 1853, the number of 3,000,000. Dr. Chickering, a celebrated statistician, and who is generally regarded as good authority, has, however, made an estimate, which exceeds that of Mr. Kennedy, in number.

What the number of the foreign population was at the time Independence was declared, we have no exact data. It has been variously estimated. A recent writer in the *New York Evangelist* has made a careful analysis of the original elements of our population, and shown conclusively, as had been stated before in the *Encyclopædia Americana*, that of the thirteen colonies, at the time of the Declaration of Independence, twelve were settled with colonists, who, with a few trifling exceptions, were Englishmen, and he proceeds to estimate the relative proportions of which our composite population consists. Of the increase of popula-



tion from the year 1790 to 1850, the date of the last Census, estimated on the most careful grounds, not less than 15,000,000 are, he thinks, of the Anglo-Saxon race. If to these we add the 3,594,762 colored persons, whose increase of course is easily ascertainable, it will leave 4,668,736, of our own aggregate population of 23,263,498, to be divided among Irish, German, French, and other descent—a result which accords with the estimate of Bancroft, and with the common sense view of the subject. An analysis of this foreign population is then made with candor and skill, the process of which we cannot present. The results arrived at are contained in the following table, which will probably surprise many readers, and perhaps furnish a better estimate of the relative moral forces which are at work among us :

|   |            |
|---|------------|
| Population of the United States in 1850,.....                     | 23,263,488 |
| Anglo-Saxon, by birth or blood,.....                              | 15,000,000 |
| African, .....  | 3,594,762  |
| Irish,.....   | 2,269,000  |
| German,.....  | 1,900,000  |
| French,.....  | 499,636    |
| Whole number of Immigrants between 1790 and 1850,.....            | 2,759,329  |
| Survivors of these in 1850,.....                                  | 1,511,990  |
| Whole number of Immigrants and descendants,.....                  | 4,350,934  |
| Survivors of these,.....  | 3,103,694  |
| Total of all our population, exclusive of Anglo-Saxon blood,..... | 8,263,498  |

Whatever the causes which have of late years produced this immense immigration into this country, it is certainly an undeniable fact, that “the palpable and admitted growing influence of the foreign born population of the United States has, for several years past, been a source of anxiety and dissatisfaction to a considerable number of our native citizens.” This is so apparent that a writer on the subject of immigration, styling himself a foreigner, frankly admits it, and says: “The Kensington riots, the Southwark disturbances, and the present position of civil, political, and religious feeling, confirm the fact, and render it an important and interesting subject, worthy of the attention and candid consideration of us all.” Another fact there is, to which he also refers, and which is probably as incontrovertible as the former, and that is, that “at least ninety out of every hundred of all the immigrants who come to the United States and the Canadas, have been driven to immigration by monarchical oppression, the laws of primogeniture and entail, special and partial legislation, unjust wars, and extravagant government expenditures, patronage and malfeasance—causes, concerning which they have a very imperfect knowledge, and over which they had little or no control.”

So far as Ireland is concerned, we have abundant evidence of the causes which have produced so large an immigration from that country. Kohl, the accomplished German traveller, who has visited and described most of the countries of Europe, and is now making a tour through the United States, admits in his book of *Travels in Ireland*, that he had no-

where found the poverty and wretchedness that prevailed among the people of Ireland. He says :—

"I remember, when I saw the poor Lettes in Lavonia, I used to pity them for having to live in huts built of the unhewn logs of trees, the crevices being stopped up with moss. I pitied them on account of their low doors, and their diminutive windows; and gladly would I have arranged their chimneys for them in a more suitable manner. Well, Heaven pardon my ignorance! I knew not that I should ever see a people on whom Almighty God had imposed yet heavier privations. Now that I have seen Ireland, it seems to me that the Lettes, the Esthonians, and the Finlanders, lead a life of comparative comfort, and poor Paddy would feel like a king with their houses, their habiliments, and their daily fare.

"A wooden house, with moss to stop up its crevices, would be a palace in the wild regions of Ireland. Paddy's cabin is built of earth, one shovelful over the other, with a few stones mingled here and there, till the wall is high enough. But perhaps you will say, the roof is thatched or covered with bark. Ay, indeed! A few sods of grass, cut from a neighboring bog, are his only thatch. Well, but a window or two at least, if it be only a pane of glass fixed in the wall, or the bladder of some animal, or a piece of talc, as may often be seen in a Wallachian hut? What idle luxury were this! There are thousands of cabins in which not a trace of a window is to be seen; nothing but a little square hole in front, which doubles the duty of door, window, and chimney; light, smoke, pigs, and children; all must pass in and out of the same aperture!

"A French author, Beaumont, who had seen the Irish peasant in his cabin, and the North American Indian in his wigwam, has assured us that the savage is better provided for than the poor man in Ireland. Indeed, the question may be raised, whether in the whole world a nation is to be found that is subjected to such physical privations as the peasantry in some parts of Ireland: This fact cannot be placed in too strong a light; for if it can once be shown that the wretchedness of the Irish population is without a parallel example on the globe, surely every friend of humanity will feel himself called on to reflect whether means may not be found for remedying an evil of so astounding a magnitude!

"A Russian peasant, no doubt, is the slave of a harder master, but still he is fed and housed to his content, and no trace of mendicancy is to be seen in him. The Hungarians are certainly not among the best used people in the world; still, what fine wheaten bread, and what wine, has even the humblest among them for his daily fare! The Hungarian would scarcely believe it, if he were to be told there was a country in which the inhabitants must content themselves with potatoes every alternate day in the year.

"Servia and Bosnia are reckoned among the most wretched countries of Europe, and certainly the appearance of one of their villages has little that is attractive about it; but at least the people, if badly housed, are well clad. We look not for much luxury or comfort among the Tartars of the Crimea; we call them poor and barbarous, but, good heavens! they look at least like human creatures. They have a national costume, their houses are habitable, their orchards are carefully tended, and their gaily-harnessed ponies are mostly in good condition. An Irishman has nothing national about him but his rags,—his habitation is without a plan, his domestic economy without rule or law. We have beggars and paupers among us, but they form at least an exception: whereas, in Ireland, beggary or abject poverty is the prevailing rule. The nation is one of beggars, and they who are above beggary seem to form the exception.

"The African negroes go naked, but then they have a tropical sun to warm them. The Irish are a little removed from a state of nakedness; and their climate, though not cold, is cool, and extremely humid.

"The Indians in America live wretchedly enough at times, but they have no knowledge of a better condition, and, as they are hunters, they have every now and then a productive chase, and are able to make a number of feast days in the year. Many Irishmen have but one day on which they eat flesh, namely, on Christmas-day. Every other day they feed on potatoes, and nothing but potatoes. Now this is inhuman; for the appetite and stomach of man claim variety in food, and nowhere else do we find human beings gnawing from year's end to year's end, at the same root, berry, or weed. There are animals that do so, but human beings nowhere, except in Ireland.

"There are nations of slaves, but they have, by long custom, been made unconscious of the yoke of slavery. This is not the case with the Irish, who have a strong feeling of liberty within them, and are fully sensible of the weight of the yoke they have to bear. They are intelligent enough to know the injustice done them by the distorted laws of their country; and while they are themselves enduring the extreme of poverty, they have frequently before them, in the manner of life of their English landlords, a spectacle of the most refined luxury that human ingenuity ever invented.

"What awakens the most painful feelings in travelling through one of these rocky, boggy districts, rich in nothing but ruins, is this:—Whether you look back into the past, or forward to the future, no prospect more cheering presents itself. There is not the least trace left to show that the country has ever been better cultivated, or that a happier race ever dwelt in it. It seems as if wretchedness had prevailed there from time immemorial—as if rage had succeeded rage, bog had formed over bog, ruins had given birth to ruins, and beggars had begotten beggars, for a long series of centuries. Nor does the future present a more cheering view. Even for the poor Greeks under Turkish domination, there was more hope than for the Irish under the English."

Sad and dreary as is the picture drawn of the condition of poor Ireland by this eminent German traveller, he had seen it before the ravages of famine and pestilence had been experienced. What then must be the condition of its people now? An English traveller who passed through the south and west of the Island in 1842, four years before the exhaustion of the soil had produced disease among the potatoes, gave the following description:

"The traveller is haunted by the face of the *popular starvation*. It is not the exception—it is the *condition* of the people. In this fairest and richest of countries, men are suffering and *starving by millions*. There are thousands of them, at this minute, stretched in the sunshine at their cabin doors with *no work, scarcely any food, no hope* seemingly. Strong countrymen are lying in bed, '*for the hunger*'—because a man lying on his back does not need so much food as a person a-foot. Many of them have torn up the unripe potatoes from their little gardens, and to exist now must look to winter, when they shall have to suffer starvation and cold too."

Frightful as must have been the condition at that time, the cup of misery became full to overflowing, when an almost total failure of the

potato crop took place, the consequences of which may be seen in the fact that the population numbered in 1850, 1,659,000 *less than it did in 1840*. Mr. Duffy, in a more recent article in the *Dublin Nation*, thus confirms all that has been said by the German and English travellers already quoted:—

"No words printed in a newspaper or elsewhere will give any man who has not seen it a conception of the fallen condition of the West and the South. The famine and the landlords have actually created a *new race* in Ireland. I have seen on the streets of Galway, crowds of creatures more debased than the Yahoos of Swift—creatures having only a distant and hideous resemblance to human beings. Grayhaired old men, whose faces had hardened into a settled leer of mendicancy, simious and semi-human; and women filthier and more frightful than the harpies, who at the jingle of a coin on the pavement, swarmed in myriads from unseen places, struggling, screaming, shrieking for their prey, like some monstrous unclean animals. In Westport, the sight of a priest on the street gathered an entire pauper population, thick as a village market, swarming around him for relief. Beggar children, beggar adults, beggars in white hair; girls with faces gray and shrivelled, the grave stamped upon them in a decree which could not be recalled; women with the more touching and tragical aspect of lingering shame and self-respect not yet affected; and among these terrible realities, imposture shaking in pretended fits, to add the last touch of horrible grotesqueness to the picture! I have seen these accursed sights, and they are burned into my memory forever. Away from the town, other scenes of unimaginable horror disclose themselves. The traveller meets groups, and even troops, of wild, idle, lunatic-looking paupers wandering over the country, each with some tale of extermination to tell. If he penetrate into a cabin, and can distinguish objects among filth and darkness, of which an ordinary pig-sty affords but a faint image, he will probably discover from a dozen to twenty inmates in the hut—the ejected cottiers—clustering together, and breeding a pestilence. What kind of creatures men and women become, living in this dung-heap, what kind of children are reared here to go up into a generation, I have no words to paint."

Speaking of the exodus of the people from the province of Connaught, the *Western Star*, deprecating the idea of the total expulsion of the Celtic race, nevertheless makes the following confession, showing with what eagerness Irishmen make their escape from Ireland to enjoy peace and plenty in the United States:

"There is no doubt that in a few years more, if some stop is not put to the present outpouring of the people to America, and latterly to Australia, there will not be a million of the present race of inhabitants to be found within the compass of the four provinces. From the west," it is added, "they are flying in hundreds."

"No thoughts of the land of their birth," it continues, "seem to enter their minds, although the Irish people have been proverbial for their attachment to their country. The prospect of an abundant harvest has not the slightest effect in giving pause to their outward movement. The predominant, and, in fact, the only feeling that seems to pervade them, is an indescribable anxiety to get out of the country at all hazards. If war, famine, and pestilence were known to be close at hand, there could not be greater avidity

shown to fly from their houses than is every day exhibited by the hundreds who crowd our high roads and railways in their journey to the shipping ports."

And this view of the subject is confirmed by a writer in the *Edinburgh Review* of July, 1854, in which he in a graphic manner describes the scenes attending their departure from the land of their nativity as follows :—

"When a number are about to leave, the whole village—the old (above sixty) against whose free immigration the passenger laws of some of the States interpose impediments; the well-to-do, who have no need to depart; the beggar, whose filthy shreds cannot be called a covering; the youngest children even,—gather in a tumultuous group about the car holding the smiling faces whose happy lot it is to leave forever their native land. With the wildest signs of grief for the departing, as if for the dead, with waving of hands, beating of the air, unearthly howls, tears, sobs, and hysterics, they press confusedly around the carriage, each one struggling for the last shake of the hand, the last kiss, the last glance, the last adieu. The only calm persons in this strange scene are the subjects of it all, to whom this moment is the consummation of long hopes and many dreams, who have talked of it and sang of it (for the songs of the peasantry now dwell upon it), till it has become a reality. Before going on board the ship at Liverpool they are subjected to a strict inspection by the medical authorities, and the same persons examine the medicine chests to see that the vessel is properly secured against malady. They are then put on board the first vessel of the line sailing after their arrival; and we have the authority of Mr. Hale for saying, that they sometimes cross and land without knowing her name. When on board they are assigned to certain berths, their chests are hauled into the little compartments opening on the deck, in which their berths are situated; they are furnished with cooking places for the preparation of the stores which they take in addition to the ship's rations, the messes are made up for the voyage, the pilot takes the ship below the bar, search is made for *stowaways*, the pilot leaves, taking with him all secreted persons whom the search exposes, and the waters of the Irish Channel are breaking against the bows. There is even less sentiment in this parting than in the former; little of the regret so natural in leaving for the land of nativity. That comes later, when, in full employment, with plenty of money, a clean, comfortable room, a tidy wife, children at school, and the old folk and brothers and sisters brought out, Pat tells the Yankees what a jewel of a land he has left behind, and wishes (the rogue) that he may just lay his old bones once more there before he dies. There is no such feeling when the ship sails—not a wet eye, not a sigh, not a regret—all is buoyant hope and happiness."

Of the Germans, the same writer speaks thus :—

"They take leave of their country with a little more sentiment than the Irish, but yet without sorrow. The legends of forests which yield them no bread, and of mountains from whose vineyards no wine is pressed for their lips, the memories of the grass-grown streets and decayed fountains of Augsburg, the departed greatness of Nuremberg—

'Quaint old town of toll and traffic,  
Quaint old town of art and song;—

the dull magnificence of Berlin, the Anglified elegance of Dresden, the small-beer architecture of Munich, even the national waters of the 'wide and winding Rhine,' and the old Germanic glories of Cologne, are little to them at the moment of leaving for the land of plenty. The same want of capital, and of an active, energetic middle class, to stimulate industry and make a division of labor, which has produced in Ireland the voluntary immigration of its best laborers, is causing the same results in the centre of Europe."

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## CHAPTER III.

### PECUNIARY ADVANTAGE OF IMMIGRATION.

WITHIN the last year past a labored effort has been made to satisfy the public that a large amount of property is brought into the country by foreign immigrants, and that, independent of their labor, they contribute largely to the wealth of the States. This is, however, an argument more specious than it will probably, upon a close examination, be found sound. It is, of course, impossible to ascertain within even an approximation of accuracy, what amount of personal property is thus brought into the country. According to a statement in *Hübner's Jahrbücher*, the immigrants registered in Berlin in 1851, being 5,018 in number, took with them property amounting in the aggregate to \$323,250, which apportioned equally among them would have been between \$64 and \$65 for each. But this can by no means be regarded as a fair basis to rest a calculation upon. Since Castle Garden, in New York city, has been made a depot for the immigrants, an attempt has been made, by the Commissioners of Immigration, to learn from each immigrant landing the extent of his pecuniary means, and the information thus received is paraded before the public by certain New York journals as evidence of the amount of wealth these immigrants add to the country. On classifying the passengers, the information thus derived from them would seem to confirm what has long been regarded as a fact, and no doubt is so, and that is, that the Germans are best off, and bring the largest amount of property with them. Their confessed means are said to average \$60 per man, woman and child, while the Irish are said to bring an average of \$30 each with them. During the month of August, 1855, the first seventeen days of it 4,318 passengers were landed at the Garden, including 148 who had visited Europe and returned, and they are reported by the Commissioners to have brought with them the aggregate sum of \$293,469 47, being an average of \$67 97 for every man, woman and child landed at the depot. Although this report may in this instance be correct, a fact which is by no means certain,

it can still not be regarded as any fair criterion to estimate the amount of capital brought into the country by immigration during the last ten years past. It is not reasonable nor likely that each immigrant from Ireland had, on arriving here, \$60 or even \$30 in his pocket, of all those whom starvation during the famine in that country induced to migrate hither. The time was when many considered themselves lucky to have means enough to pay their passage, and arrive here with a half dozen British pennies in their pockets. It is true, Ireland is more prosperous now, and the immigration may embrace a class who are, generally, not without some means; but it is very doubtful whether they average \$30 per head.

It would be probably a much safer and more accurate calculation, to assume for its basis, that the average amount of property brought by each immigrant during the last ten years past, was \$15. Bishop Hughes himself claims no larger amount; for but a short time since he averred in the *Freeman's Journal* that to be the sum. Taking that, then, as the amount, and what is the aggregate sum that has been brought into the country by them from the beginning of 1850 to the close of 1854? During that period 1,983,882 persons are reported by the State Department at Washington to have arrived, which at the rate of \$15 per head, would make the sum of \$29,758,220. Now, to arrive at a correct conclusion, and ascertain whether there is a balance in favor or against the country, let us take an account of the other side of the question and strike a balance sheet. By the general report of the British Immigration Commissioners, made on the first of May last, the amounts remitted from this country, by bankers and merchants, to Ireland alone, during the same period, was as follows: in 1850, £957,000; in '51, £990,000; in '52, £1,404,000; in '53, £1,439,000; and in '54, £1,730,000—making an aggregate in the five years of £6,520,000, which, when converted into our currency, sums up \$28,948,800. We have thus a balance left in favor of this country of less than \$1,000,000, without taking into account the amounts sent to Ireland through private sources, which cannot be ascertained, and without counting a dollar of the large amount remitted by the Germans and immigrants from other countries for like purposes. It is clear, therefore, and requires no further demonstration by figures, that immigrants do not, by the property they bring with them, add to our national wealth, but that, on the contrary, they contribute to swell the coffers of the countries of their birth, by remitting a larger amount of money than they bring with them.

But we are not yet done with the reckoning. The case has not been much more than half stated. We have ascertained, provided our premises be correct, (and the *Freeman's Journal* is our authority for assuming \$15 to be the sum brought by each,) the amount brought into the country by

immigration, and, we think, satisfactorily shown, that, instead of one dollar of it being contributed to the common fund of the nation, they have remitted all and more to the countries from whence they migrated. Having contributed nothing to the aggregate wealth of the country, what claim then have they to its charitable consideration? And yet, whose means but the natives of this country and those now identified with them, feeds their paupers and educates their children? And how much of the public expenses is incurred by the crimes committed by the vicious portions of them, which has to be borne also by those among whom they have sought a home? These are questions yet to be taken into consideration before the balance sheet can properly be closed, and, when they are, they will be found to put at rest the claim now preferred in favor of immigration. A brief examination of the pauperism in the United States, the crimes committed, and the expenses incurred thereby, will show a heavy balance against immigration and in favor of the natives.

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## CHAPTER IV.

### PAUPERISM.

THE published Census returns of 1850, are lamentably deficient in detailed information on the subject of paupers and convicts. We learn from it, however, that the amount of public means expended, within the year preceeding 1850, for the support of paupers, was *two millions, nine hundred and fifty-four thousand, eight hundred and six dollars*; and the number of paupers supported within the same year, in whole or part, was *one hundred and thirty-four thousand, nine hundred and seventy-two*, of which number *over one-half were foreigners*, there being *sixty-six thousand, four hundred and thirty-four native born, and sixty-eight thousand, five hundred and thirty-eight of foreign birth*. It thus appears that of the 2,244,625 foreign born population in the United States, at that time, one of at least every thirty-three was a pauper, supported at the public expense, while of the 19,979,563 native born, including the free colored and those returned as of unknown birth, only one of every three hundred was thus a charge on the public.

Of the amount expended, and the number supported the year mentioned, there was expended in the *free States* \$2,451,917 in the support of 113,712 persons, of whom 50,023 were natives, and 63,689 were foreigners; while in the *slave States* there was expended \$502,889 in the support of 21,260, of whom but 4,849 were foreigners.



Of the foreign paupers maintained in the *free States*, those of Massachusetts, New York, and Pennsylvania, had 55,480, being seven-eighths of the whole number, while the States of Maine, New Hampshire, Connecticut, Rhode Island, Vermont, and New Jersey, had 5,594, leaving but 2,615 scattered over the Western and Northwestern States. New York had 40,580 foreigners and 19,275 natives, as paupers, being one of every sixteen of the foreign population of the State, and but one of every one hundred and twenty-seven of its native population. Massachusetts had 9,247 foreigners and 6,530 natives, being one of every eighteen of its foreign population, and but one of every one hundred and twenty-eight of its native born citizens. Pennsylvania had 5,653 foreigners and 5,898 natives, being one of every fifty-four of its foreign born, and but one of every three hundred and forty-two of its native population.

Of the foreign paupers maintained in the *slave States*, those of Maryland and Missouri had 3,348, leaving but 1,501 in the remaining States, of which South Carolina had 329, and Louisiana 290. In Maryland, there were 2,591 native and 1,903 foreign paupers, being one of every one hundred and sixty-nine of its native, and one of every twenty-eight of its foreign population. Missouri had 1,729 foreign and 1,248 native paupers, being one of every forty-two of its foreign, and one of every four hundred and eighteen of its native born population.

It is quite apparent from these statistics that the free States are burdened with a large foreign pauper population, exceeding in number the native born who are supported at the public expense, while in the slave States there is but one pauper of foreign birth to three native born.

Professor De Bow's *Compendium of the Census* has an imperfect table, giving the number of paupers in poor-houses, on the 1st of June, 1850, from which the following facts are gleaned:

There were then in the poor-houses of Massachusetts 3,712 persons, not including the out-of-door paupers who received public support, of which number there were 989 foreigners, being *over one-third of the whole number*, of whom 803 were Irish, 13 German, and 173 from other countries.

In the poor-houses of Maryland there were then 988, of which number there were 243 foreigners, being *near one-fourth of the whole number*, of whom 128 were Irish, 88 German, and 27 from other countries.

In Missouri there were in the poor-houses then 276, of which number there were 151 foreigners, being *over one-half*, of whom 77 were Irish, 43 German, and 31 from other countries.

In Virginia there were then 1,539 in the poor-houses, of which number but 40 were foreigners, of whom 30 were Irish, 5 German, and 5 from other countries.

In Indiana there were 427, of whom there were 49 Irish, 16 German,

and 18 from other countries, making 88, being about one-fifth of the number.

In North Carolina they had 878, and but 2 Irishmen, 2 Germans, and 4 other foreigners.

From other sources than the Census returns of 1850, such as the *Prison Discipline Journal*, *American Register*, *American Almanac*, Reports of Benevolent Societies and Institutions, Commissioners of the Poor, Prison Inspectors, &c., the following additional information is derived on the subject :

In Massachusetts, there were relieved and maintained at the public expense, from 1837 to 1840, the aggregate number of 8,671 persons, of whom 6,104 were foreigners, being *over two-thirds of the number* ; for the years 1850, '51, '52, '53, ending November 1, the whole number amounted to 107,776, of which 48,469 were foreigners, being *not quite one-half*, and of these over 40,000 were from England and Ireland.

According to the report of an association for relieving the poor in New York city, it alone relieved in that city, during the year 1854, about 27,000 persons, of whom, though the number was not given, there can be little doubt the greater portion were foreigners.

The number received into the Baltimore alms-house, during the year 1851, was 2,150, of which number *about 900 were Irish and Germans* ; and of 2,358 admitted to the same institution in 1854, *there were 1,397 foreigners*, of whom 641 were German, and 598 Irish.

So the Society for the relief of the poor in Philadelphia, report that for the year ending March 31, 1855, there were received into their Home establishment 1,266 persons, of whom there were 816 foreigners, 182 of unknown birth, and 268 Americans ; of the foreigners there were 605 Irish, 122 English, 41 German, 32 Scotch, 7 French, 3 Welsh, 2 Italian, 2 West Indian, 1 from Switzerland, and 1 from St. Helena.

The whole number of paupers received into the Blockley (Philadelphia) Alms-house, in 1848, was 3,584 ; of these there were 1,141 natives, 2,345 foreigners, 98 unknown ; of the foreigners, there were 1,650 Irish, 435 Germans, 227 English, 46 Scotch, 16 French, 3 Canadians, 3 Spaniards, 3 Polish, 3 from West Indies, 2 from South America, and 2 Russians.

A late report of the superintendent of the Louisville alms-house states the number of inmates to be 164, of whom 135 are foreigners and 29 natives, being *over two-thirds of foreign birth of the whole number maintained by that city*.

The *Buffalo Advertiser* gives the following statement of the number committed to the work-house in that city, for the last four years past :

| YEARS.                  | NATIVE.    | FOREIGN.   | TOTAL.     |
|-------------------------|------------|------------|------------|
| 1852.....               | 254.....   | 708.....   | 962.....   |
| 1853.....               | 318.....   | 832.....   | 1,150..... |
| 1854.....               | 344.....   | 854.....   | 1,198..... |
| 1855...(11 months)..... | 360.....   | 1,022..... | 1,382..... |
| Total, 4 years,.....    | 1,276..... | 3,416..... | 4,692..... |

The Chambersburg *Transcript* states that for a period of nine months, from January 1, 1855, there were 553 wayfaring paupers entertained at the poor-house of Franklin county, Pa., of whom 522 were foreigners, and but 31 Americans.

The number of paupers relieved at the alms-house in Adams county, Pa., from January 1, 1855, to September 1, 1855, was, according to a register kept by the steward, 391, *of whom 361 were foreigners.* Of these 284 were German, 60 Irish, 9 English, 2 French, and 1 Hungarian. 30 were American born. The number of days charged against the American paupers, is 130; against the foreign born, 1839.

In the King's county alms-house, New York, there were 1,533 inmates, *of whom 921 were foreigners.* In the hospital, at the same place, 475 inmates, *of whom 341 were foreigners.*

At the New Orleans city work-house, the number committed during the two weeks ending August 3, 1855, was 108, of which 92 *were foreigners*, of whom 60 were Irish.

The following statistics of the Blockley Alms-house, at Philadelphia, are of the same character. The monthly report of the Visitors, on the 20th of January, 1855, gave the number of persons receiving out-door relief, as follows: Americans 1,154, foreigners 1,805! On the 1st of March, the Census of the inmates of the house, showed that there were 558 white natives, 1,571 white foreigners, and 170 colored.

Of the hospital statistics at hand, the following will suffice to show that the number of foreigners admitted into them greatly exceeds that of the native born. The following is a table of the admissions into the Pennsylvania Hospital, at Philadelphia, for a period of twelve years last past, showing the nativities of the persons received:

| YEARS.      | UNITED STATES. | IRELAND.   | ALL OTHER COUNTRIES. |
|-------------|----------------|------------|----------------------|
| 1842.....   | 438.....       | 300.....   | 86.....              |
| 1843.....   | 406.....       | 300.....   | 99.....              |
| 1844.....   | 474.....       | 348.....   | 116.....             |
| 1845.....   | 479.....       | 354.....   | 131.....             |
| 1846.....   | 479.....       | 447.....   | 147.....             |
| 1847.....   | 559.....       | 563.....   | 155.....             |
| 1848.....   | 627.....       | 702.....   | 217.....             |
| 1849.....   | 648.....       | 758.....   | 246.....             |
| 1850.....   | 760.....       | 812.....   | 243.....             |
| 1851.....   | 626.....       | 887.....   | 252.....             |
| 1852.....   | 607.....       | 783.....   | 256.....             |
| 1853.....   | 618.....       | 782.....   | 307.....             |
| 1854.....   | 579.....       | 902.....   | 350.....             |
| Total,..... | 7,291.....     | 7,938..... | 2,605.....           |

It thus appears that the aggregate number received was 17,834 in these twelve years, of which 10,543 were foreigners, being *considerably over one-half of the whole number*, and of which *more than two-thirds were from Ireland*. Of those admitted during the year 1854, there were, as above stated, 579 natives, 902 Irish, 350 from other countries, of whom 132 were German, 100 English, 38 Scotch, 13 French, 9 Welsh, 8 Swiss, 6 West Indians, 5 from Sweden, Spain and Nova Scotia, each; 4 Canadians, and 4 Danes, 3 from Italy and East Indies, each; 2 from Newfoundland, Belgium, and at Sea, each; and one from Hungary, Norway, Finland, Greece, Brazil, and Columbia, each.

At the Charity Hospital, in New Orleans, the number of admissions, in 1848, was 11,945, of whom but 1,579 belonged to the United States, and 10,280 *were foreigners*. In 1849, there were 15,558 persons admitted, of whom only 1,782 belonged to the United States, and 13,634 *were foreigners*. In the year 1853, there were 13,750 persons admitted, of whom 12,333 were foreigners, and 1,534 natives.

So at Cincinnati, there were, during the year 1848, about 3,000 persons admitted into the City Hospital, of whom *over two-thirds were foreigners*; during the year 1854, the number admitted was 520, of whom 449 *were foreigners*; the number who received in-door relief was 1,599, of whom 1,307 *were foreigners*; and the total number of persons relieved at the institution, during the same period, was 6,280, of whom 4,654 *were foreigners*. So at the Infirmary, in the same city, the number admitted, in 1854, was 660, of whom 505 *were foreigners*.

The number of patients attended during July, 1855, at the Northern Dispensary in New York City, was 996, of whom 630 *were foreigners*, 568 being Irish, 24 English, 15 Scotch, 12 German, and 11 from other countries. So of 1945 patients at the Eye and Ear Infirmary of the same city, during the year 1848, *there were 1118 foreigners*.

An examination of the reports of the Insane Hospitals would probably present a similar state of affairs. In the Pennsylvania Hospital for the Insane, of 2576 patients admitted, 635, *being one fourth of the number*, were foreigners, of whom 346 were Irish, 118 English, 108 German, and the remainder from other countries; in the Massachusetts Hospital for Lunatics, in 1849, of 169 patients supported by the State, 95 *were from Ireland*.

Many other similar statistics might be adduced, all showing the same state of things in different sections of the country; but the following extract from a recent letter of JEREMIAH CLEMENS, late United States Senator from Alabama, will suffice:—

“By reference to the annual report of the Governors of the Alms-House, I find there were in the New York Alms-House during the year 1853, 2198 inmates—of these only 535 were natives, and 1663 foreigners, supported

at the expense of the city. And now I propose to use on our side the argument of our opponents, that there are only 3,000,000 foreigners to 20,000,000 natives. According to that ratio there ought to be about seven natives to one foreigner in the Alms-House; whereas we find more than three foreigners to one native. No wonder that a people who are taxed to support such a body of paupers should be the first to set about devising means to get rid of them. Let us pursue the record—in the Bellevue Hospital, in the same city, there were 702 Americans—4134 foreigners; now the proportion rises to nearly six to one.—There were of out-door poor,—that is, persons who had some place to sleep, but nothing to eat and nothing to make a fire—957 native adults, and 1044 children—3181 foreign adults, and 5229 foreign children, or children born of foreign parents. This number were relieved during the year with money. Of those relieved with fuel there were 1248 adult Americans and 1810 children—10,355 adult foreigners and 17,857 children. But the record is not yet complete—let us turn to the statistics of crime. In the city prisons there were during the year, 6,102 Americans—22,229 foreigners. I pass on to an abode even more gloomy than that of the prison cell, and call your attention to those whom God in his wisdom has seen fit to deprive of the light of reason. In the Lunatic Asylum, there were admitted from the year 1847 to 1853, 779 Americans—2381 foreigners. For the year 1853 there were 94 Americans, 393 foreigners. These tables might be made more complete by adding organ grinders, strolling mendicants, and professional beggars; but of these I have no reliable data, and therefore pass them with the single remark that I have never seen a native American who belonged to either class. These figures are far more conclusive than any language could be to prove the necessity of arresting the tide of immigration. Let every American impress them deeply upon his memory: 42,369 foreign paupers and invalids; 2381 lunatics, and 22,229 criminals, taxing the industry, and blighting the prosperity of a single city. In that list of crimes is embraced murder, rape, arson, robbery, perjury, every thing which is damning to the character of the individual, and every thing which is dangerous to society."

## CHAPTER V.

## CRIME.

CRIME has also been enormously increased by immigration. According to *De Bow's Census Compendium*, the whole number of criminals convicted within the year preceding that the Census of 1850 was taken in all the States but California, was 26,679, of which number 12,988 were natives, and 13,691 were *foreigners*, being one conviction out of every fifteen hundred and eighty of the native, and one out of about every one hundred and sixty-five of the foreign population in the United States at that time. In the *free States* there were 10,822 natives, and 12,789 foreign convictions, and in the *slave States* there were 2,166 natives, and 1,902 foreigners.

Of those in the *free States*, there were 10,279 in New York, being near one-half of the whole number, of whom 6,317 were *foreigners*, being two-thirds of the convicts in the State, and nearly one-half of the foreign convicts in the United States.

In Massachusetts, there were 7,250, of which there were 259 more than one-half *foreigners*, and more than one-fourth the whole number of foreign convicts in all the States. Taking the convictions in all the New England States, more than one-half were *foreigners*.

In Missouri, there were 908, of whom there were 666 *foreigners*, being more than two-thirds of the number in the State, and one-third of the whole number in the *slave States*.

In Connecticut the whole number of convictions was 850; and of these 545 were natives, and 305 *foreigners*.

In Illinois the whole number of convictions was 316; and of these 127 were natives, and 189 *foreigners*.

In Maine the whole number convicted was 744; and of these 284 were natives, and 460 *foreigners*.

In Pennsylvania the number of convictions was 1277; and of these 984 were natives, and 293 *foreigners*.

In Vermont the number convicted was 79, of whom 34 were natives, and 45 *foreigners*.

The statistics of State Prisons and Penitentiaries of 1850, as given in Professor De Bow's book, show that there were then 4,758 *white inmates*, of whom 1,499 were of foreign birth, being near one-third of the whole number. Of these there were in the *free States* 2,271 natives, and 1,129 foreigners, and in the *slave States*, 988 natives, and 370 foreigners.

Of the 809 inmates in the State Prisons of the New England States, 580 were natives, and 229 foreigners. In the three State Prisons of New York, there were 1380, of whom 885 were natives, and 545 foreigners; in the two in Pennsylvania, there were 328, of whom 205 were natives, and 123 foreigners. Of the 370 foreign inmates in the *slave* States, 106 were in Louisiana, 96 in Alabama, 58 in Missouri, and 34 in Maryland.

By the same table, from which these facts are gleaned, it appears that in Maine, out of every ten thousand, there are five foreigners to one native. In Kentucky, six to one. In Mississippi, ten to two. In New York, three to one. In Tennessee, fifteen to two. In Vermont, eight to one. In South Carolina, twenty-eight to one. In Alabama, fifty to one. In Georgia, six to one. In Indiana, four to one; and the average in all the States is a fraction less than six to one.

And by another table in the same book it appears that of 431 inmates in Massachusetts, including blacks, 300 were natives, one whose birth was unknown, and 130 foreigners, of whom 74 were Irish, 3 German, and 53 from other countries; of 40 foreign inmates in Maryland, 5 were Irish, 25 German, and 5 from other countries; of 11 foreign inmates in Virginia, 5 were Irish, 3 German, and 3 from other countries; of 59 foreign inmates in Missouri, 29 were Irish, 12 German, 17 from other countries.

In addition to these statistics, the following are derived from the reports of Prison Discipline Societies, Prison Inspectors and other sources:

Of 483 convicts received in the Massachusetts State Prison, in 1852, there were 170 foreigners, *being more than one-third of the whole number*; and of 27,883 persons admitted into the various jails of that State, during the years 1850, 1851, and 1854, 9,367 were foreigners, *being also over one-third of the whole number*.

Of 634 inmates in the Penitentiaries of New York, during the years 1852 and 1853, there were 332 foreigners, *being over one-half of the whole number*.

In Pennsylvania, there were admitted into the Eastern Penitentiary from October, 1829, to the close of the year 1849, 2421 persons, of whom 460 were foreigners, *near one-sixth of the whole number*, 199 being Irish; and of the 124 received in 1854, there were 41 foreigners, *being one-third of the number*.

In New Jersey, during 1852 and 1853, there were received in the State Prison at Trenton, 351 convicts, 113 of whom were foreigners, *being nearly one-third of the number*.

In Ohio, there were at the end of the year 1854, 587 inmates in the Penitentiary at Columbus, 144 of whom were foreigners, *being near one-fourth of the number*.

In the Wisconsin Penitentiary there were 105 received in 1854, of whom 72 were foreigners, *being over two-thirds*.

Louisiana is the only Southern State with a large city, and has, of course, its State Prison filled. At the date of the annual report for 1854, there were 295 prisoners, 114 of whom were foreigners, *being over three-eighths of the number*, 55 being Irishmen, 15 German, 12 French, 6 English, 3 Mexican, 3 Prussian, 3 Italian, and the remainder from other countries.

In California, a statement recently published gave the whole number admitted since the opening of the Penitentiary, to be 501 convicts, *three fifths of whom were foreigners*.

The Philadelphia *Sketch Book* for April, 1855, states that the number of persons in prison last year, according to the penitentiary reports, was 5,646. In other words, that of the offences committed during the year, one-fifth, or 5,646 of the aggregate cases, were sufficiently grave to incur a penitentiary punishment; while the remaining 20,899 cases were punished with ordinary jail and house of refuge incarceration. The following was the proportion to the whole number of cases in the four principal northern States :

| CONVICTIONS.                 |       | CONVICTIONS.                |     |
|------------------------------|-------|-----------------------------|-----|
| Massachusetts,—native, ..... | 3,366 | New Jersey,—native, .....   | 346 |
| “ foreign, .....             | 3,884 | “ foreign, .....            | 257 |
| New York,—native, .....      | 3,962 | Pennsylvania,—native, ..... | 564 |
| “ foreign, .....             | 6,317 | “ foreign, .....            | 293 |
| Total, .....                 |       | 18,989                      |     |

Being over two-thirds of the entire number of cases in the four States named, of which 10,751 were foreigners, *being more than one-half of the whole number*.

A speech delivered in the United States Senate, January 25, 1855, by the Hon. JAMES COOPER, of Pennsylvania, stated that in the conviction for capital offences the proportion of foreign to native born was startling, and that out of two hundred and twenty convictions which took place, in about eighteen months, in seven States, viz. : in New York, Pennsylvania, Missouri, Louisiana, New Jersey, Massachusetts, and Maryland, there were 138 of *foreigners* to 82 of natives.

In still further corroboration of the facts before recited, the following article from a New York journal of 1853, may be cited :

“Fitzgerland will be hung at the Tombs to-day for shooting his wife. Neary, sentenced to the same fate for a similar offence, is respited one week, in order that the sheriff's jury may determine whether he has lost his reason. If the latter execution takes place, it will make seven in this city within the last year! In all England and Wales, the whole number of executions during the year 1852, as appears by a parliamentary report, was only nine. The population of this city is 600,000—the population of England and Wales is 18,000,000. In other words, New



York, with a population of only one-thirteenth as large as England and Wales, hangs seven-ninths as many in the same space of time.

"The little we fail in point of number, however, is more than made up in the atrocity of the offences. Of the nine hung in England, one murdered his wife, one her husband, one her mother-in-law, one his employer who had dismissed him, one his uncle, one a stranger on the highway, one his own illegitimate child, one the illegitimate child of his wife, one the illegitimate child of his paramour; but of the seven, three murdered their wives—namely, Grunzig by poison, Fitzgerland by shooting, Neary by beating the brains out with a mallet and chisel; Stookey murdered a negro, Clark murdered a policeman, and Saul and Howlett a watchman. Three of the English murders were of infants, but all of the New York murders were of full grown persons, three of whom sustained the most sacred of all relations to those who deprived them of life. But, in truth, New York of right has the precedence of all England and Wales on this score, even in regard to number. Doyle, who murdered the woman with whom he boarded in Pearl street, was sentenced to be hung, and ought to have been hung, and would have been hung in England; but was sent to the State prison for life. Sullivan, who killed the man in Cliff street, who endeavored to prevent his beating his wife, was found guilty of murder, and ought to have been hung, and would have been hung in England, but was sent to the State prison for life. Johnson, one of the condemned with Saul and Howlett, was sent to the State prison for life. There are now at the Tombs ten men awaiting trial for murder, one of whom, Carnell, the fiendish Day street murderer, has already been convicted once, and is now awaiting a second trial. The whole number of arrests in this city for homicide, within the last year, has been, as near as we can ascertain, about thirty-five. The whole number of arrests in this city, during the year 1852, was about 35,000; the whole number of commitments in England and Wales, was 27,510. The whole number of arrests for offences committed upon the person in New York, in 1852, was 5,468; in England and Wales, the whole number of commitments for the same class of offences, during the same period, has been about 2,000. In England, last year, there were 13 convictions for burglary; in New York, 146 arrests for the same offence. During the last seven years, there were 66 convictions for this offence; in New York, during the same period, over 1,000 arrests. But this does not furnish the worst aspect of the case. The disparity between England and this city is yearly becoming greater—while crime is increasing there slightly, it is here increasing with fearful rapidity. The whole number of convictions for murder in England, in 1846, was 13; the whole number of arrests in New York, for murder, for the nine months preceding May 1, 1846, was 10. In England, the convictions of 1847, were 19; in New York,

during the year ending May 1, 1847, the arrests were 18. In 1849, the convictions in England were 19; in New York, the arrests for the year ending November 1, were 13. In 1850, the convictions in England, 11; in New York, during the fifteen months ending with the last of December, 1850, they were 16. In 1851, the English convictions were 16; the New York arrests 36. In 1852, the English convictions were 16; the New York arrests were 30. The total number of commitments for all kinds of offences in England and Wales, during the last seven years, was 194,424; the total number of arrests in New York during the same period, was over 200,000. We are not able to make an exact comparison between the absolute number of crimes perpetrated in England, and in New York city, since the Parliamentary tables before us relate only to commitments in the case of offences generally, and to convictions in cases of murder, whereas our Police tables only give the number of arrests. Of course, many are arrested who are not committed or bound over for trial, but their number is by no means so great as to destroy the remarkable significance of the figures we have put in connection. Now, what are the causes of the remarkable difference between this city and England, in extent of crime? England has its immense cities, abounding with ignorant and vicious classes of population—it has its London, its Liverpool, its Birmingham, its Manchester, and its Leeds, and yet this single city of New York, if we may trust official tables, exceeds not only each of them in crime, but all put together. It cannot be ascribed to any peculiar character of our people, distinct from theirs—for it is notorious, that the greater part of our criminality springs from the foreign element of our population. Of the seven murderers above specified, for instance, six of them were foreigners, one being a German, three Irish, one English, and one a Nova Scotian; and the seventh, though born in this city, was of Irish parentage. The same people that chiefly commit the crimes here are found in vast numbers in every English city. Why, then, the difference in the extent of that crime? The causes which produce this result are various and complex, some of which we may consider hereafter. The most important of them are, doubtless, the comparative inefficiency of our police in preventing crime, the comparative uncertainty of our courts in punishing crime, the neglect of our young vagrant population, and the vast number of disorderly grogeries, licensed and unlicensed, that have all the while, without restraint, been stimulating the passions and bad propensities of all the lower classes of our population. It is time that these matters should be seriously and earnestly looked at and cared for. Our streams of crime are increasing in torrents; and they threaten to overwhelm us. The facts we have given, startling as they are, cannot be denied. Official documents prove them. Read and ponder.”

So there are other statistics showing a like state of things. According to the reports made on the subject, there were received into the houses of Correction, in Massachusetts, 29,076 persons, during the years 1850, '51, '52, '53 and '54, of which number 11,149 were of foreign birth, *being considerably over one-third of the number*. Of 1,056 inmates of the House of Correction, in Boston, in 1852, there were 738 foreigners, *being two-thirds of the number*.

A respectable local newspaper, a few months since, published the following statistics of crime and pauperism in Hudson county, New Jersey, viz. : 21,000 inhabitants, of whom 12,000 are natives, 5,000 Irish, and 4,000 other foreigners ; 4,168 persons confined to city prison and county jail, of whom 77 were natives, *leaving 4,099 foreigners*, of whom 3,608 were Irish ; 188 inmates of the alms-house, none of whom are natives ; *all being Irish* ; 723 received aid from the poor-master, of whom 3 were natives, and 720 Irish.

Of 107 committed to the Jersey City prison during the month of June, 1855, but 13 were natives, 3 of whom were colored, while the others were foreigners, 71 of whom were Irish, 14 English, and 9 German. According to a report of the Marshal of the same city, there were, during the month of September last, 113 arrests for the following offences : Drunkenness, 61 ; breach of the peace, 26 ; assault and battery, 14 ; vagrancy, 1 ; violation of the Sabbath, 2 ; disorderly house, 1 ; assaulting females in the street, 1 ; larceny, 7—total, 113. Of this number 82 were born in Ireland, 20 in the United States, 6 in Germany, 3 in England, 1 in Scotland, and 1 was colored. The Captain of the Watch reported, that during the same month there were 218 lodged in the watch-house, of whom 29 were females, whose nativity is not given, 67 Irish, 60 German, 22 English, 30 Americans, and 10 colored.

The Buffalo *Advertiser* publishes the following statement of persons committed to the jail of Erie county, New York :

|              | NATIVE.  | FOREIGN. | TOTAL.     |
|--------------|----------|----------|------------|
| 1853.....    | 268..... | 336..... | 604.....   |
| 1854.....    | 192..... | 279..... | 471.....   |
| Total, ..... | 460..... | 615..... | 1,075..... |

In the four cities of Buffalo, Albany, Brooklyn, and New York, the number of convictions was 3,733 in the year 1852, of which 2,802 were foreigners, being over two-thirds of the number.

Of 301 arrested in New York city for drunkenness, during the first week of August, 1855, there were 252 foreigners, 211 of whom were from Ireland, 16 from Scotland, 12 from England, 7 from Germany, 3 from France, and 3 from Wales ; and of 314 arrested for the same offence the week following, 268 were foreigners, 218 of whom were Irish, 17 German, 14 English, and 14 Scotch.

The inspectors of the Moyamensing prison, at Philadelphia, report that of 273 sentenced in the year 1853 to hard labor, 114 were foreigners, 68 of whom were Irish.

The following imperfect statistics of arrests made in Philadelphia, show the same state of things. In the third ward of that city, there were, during a period of three months, over 700 arrests by the police, of which number but 189 were Americans, 22 blacks, and 502 *foreigners*, of whom 491 were Irish, 61 German, 23 English, 4 Scotch; in the seventh ward, the arrests from the 14th of September, 1854, to the end of the year, numbered 492, and during the month of February, 1855, they numbered 89, making an aggregate of 581, of whom but 69 were Americans, 143 blacks, and 369 foreigners, of whom 327 were Irish, 10 English, 6 German, and the remainder from other countries; in the tenth ward, during the same periods, there were 433 arrests, of whom 123 were natives, including blacks, and 310 *foreigners*, of which number there were 219 Irish, 38 English, 22 German, 14 Spaniards, 8 Poles, and 1 Frenchman; in the 12th ward, the number of arrests, from October, 1854, to January, 1855, were 245, and during February, 1855, there were 70, making an aggregate of 315, of which number 63 were natives, including blacks, and 252 *foreigners*, of whom 120 were Irish, 110 German, 11 English, and 3 Frenchmen; in the 14th ward, the arrests from September 27, 1854, to January 1, 1855, were 221, 97 of whom were foreigners, of which number 77 were Irish, 14 German, and 6 English; of 281 arrests made in the 19th ward, but 27 were Americans and 1 colored person, *the remaining 253 were foreigners*, 207 being Irish, 26 German, 14 English, and 6 Dutch; of 344 arrests in the 20th ward, 109 were Americans, and 7 colored persons, *the remaining 328 being foreigners*, of whom 159 were from Ireland, 58 from Germany, 10 Englishmen, and 1 Frenchman. The following is the number of arrests made by the police of the twenty-third ward, with their places of nativity, from October 1st, 1854, to October 1st, 1855: American 44, French 1, German 17, Irish 111, black 8, Scotch 2, English 60, unknown 5—total 248.

## CHAPTER VI.

### INTEMPERANCE.

INTEMPERANCE is undoubtedly one of the great causes of crime. Thus of 613 commitments to the State Prisons of New York in 1852, two-thirds confessed intemperate habits, and how many were of that class called moderate drinkers does not appear; and the New York Prison

Association's Report, for the same year, states that ninety per cent. of the whole number committed to prison in that city, during that year, were intemperate. So of 126 received the same year in the Eastern Penitentiary of Pennsylvania, only 32 were registered as temperate, leaving 94 on the list of drinkers, moderate or immoderate; and of 96 received during the same year in the Western Penitentiary, 89 are regarded as having been brought to the felon's home by such indulgence. So in Philadelphia. Of 452 arrests made by the police in the sixth ward, from October 1, 1854, to January 1, 1855, there were 319 for drunkenness; of 282 in the ninth ward, 140 for the same offence; of 245 in the twelfth ward, 142 for the same; and of 308 in the seventeenth ward, 183 for the like offence.

The Inspectors of the Moyamensing Prison, in their Report for 1854, bear the following emphatic testimony on this point: "Full three-fourths of all the crimes that are committed may be traced to intemperance. The rum shops that infest our city furnish a large proportion of our prisoners. It is not of unfrequent occurrence that prisoners of the class alluded to, are but a few hours released from confinement when they are brought back upon a similar charge." The turnkey's Report for 1853, furnished by the Mayor's clerk to the Grand Jury of the March term of the Philadelphia Quarter Sessions, shows that of 9,112 prisoners, 7,852 were for intoxication or for crimes induced by the use of strong drink.

Many more statistics like the foregoing might be adduced, but it cannot be necessary, for it is an admitted fact, requiring really no proof. Who, then, are those generally engaged in selling liquor, and who thus contribute to the increase of crime? A large majority are foreigners, and, though accurate statistical information cannot be had on the subject, there is sufficient to be had to justify the assertion. According to a Report of the Marshal of the city of Boston, in 1852, there were then 1500 places in that city where liquor was sold, of which but 490 were kept by Americans, and the remainder by foreigners, of whom 900 were Irish and 110 German and Swedes. We have no similar statistical information in relation to New York, Philadelphia, Baltimore, and other cities and large towns, but, if obtained, there remains not a reasonable doubt, it would present a like state of facts. But, it will be inquired, "What of it, if it be so? Do you mean, by these general declarations, to ascribe all the evils of vice and crime to the liquor sellers, and to condemn all as being engaged in a business which should be prohibited by law?" It is not necessary here to make a categorical answer to such an interrogatory. Suffice it to say, that the groggeries, which are mainly the cause of the prevailing vice of intemperance, should be prohibited, and that these are chiefly kept by foreigners, while the Americans engaged in the business are keepers of respectable hotels and houses of

entertainment, which are so conducted as to be in a great degree exempt from the charge of contributing to the increase of pauperism and crime. It is the groggeries, many of which sell liquor without license, that are responsible for the pauperism and crime in our country, that make widows and orphans, and contribute to increase juvenile vagrancy and delinquency; and these, it is safe to aver, are chiefly kept by foreigners.

A recent writer states that "alcoholic beverage," which is the euphonious phraseology of the day, has, during the last ten years, "burned \$5,000,000 worth of property; destroyed 300,000 lives; sent 150,000 persons to our State prisons, and 100,000 children to the poor houses; caused 1500 murders, 2000 suicides, and has bequeathed to our country 1,000,000 orphan children." Be this as it may, liquor is undoubtedly a great source of evil, making orphans, and these, without moral training, growing up in ignorance, poverty and filth, become criminals, as is forcibly described in a recent very able essay on juvenile delinquency, published under the direction of the Board of Managers of the Philadelphia House of Refuge: "Young years are tender and easier wrought upon," said Tillotson, "apt to be moulded into any fashion; they are like moist and soft clay, which is pliable to any form; but soon grows hard, and then nothing is to be made of it." What will be gained by driving the boys from the engine-houses and corners to their "sweet homes?"

"Sated with exhalations rank and foul."

Nature, demanding relaxation and fresh air, impels the boy to seek pleasure where he can find it. A dozen collect together. They must have amusement. They cannot read; or if they can, they have nothing to read; or if they had, they have no place. Let the reader imagine himself, instead of being seated in a large parlor, in a soft and luxurious arm-chair, reading the latest magazine or popular tale, transported, even with his interesting book in hand, to a small, close apartment, in which are four or five adults and as many children, a pile of reeking clothes on the only table in the room, a red hot stove, in which the bread for a large family is baking, and a "penny dip" shining to *illuminate* the room. How long will he sit still to enjoy his book? Will he not, in utter despair, rush off to the nearest dram-shop—to the neighboring rendezvous at the corner—or to the engine-house? The boys who "swarm in the streets to pilfer and plague the broad highway," are to a certain extent excusable, and to the utmost to be pitied. They have no place of amusement, no books, no sisters to play on the piano, or sing for them, no games to engage their attention, in a well-lighted and comfortable apartment. The boy cannot mope—his nature resists that. His young

heart beats gaily in spite of its manifold oppressions. His young muscles ask for relaxation. He desires to have some "*fun*," as well as the son of his more favored neighbor, who has had a ride in a carriage, or a romp in a large hall, or who has been taken, by *Pa* or *Ma*, to hear some celebrated singer. He has no money with which to purchase innocent amusements. He cannot relax his system, after his hard day's toil, at the opera or concert; these sorts of *fun* are beyond his reach. He must do something; so he gets up a fight, or teases the passers-by. One thing leads to another—he applies a torch to some building, and then—"runs with the engine."

"Are our readers still unable to perceive the causes of juvenile delinquency? If so, here is a picture of 'Life among the lowly,' equally true whether painted for London, Boston, New York, or Philadelphia.

"Stand before the entrance of that court. 'Look! There's not a soul down that court-yard but is either a drunkard, or beggar, or thief, or something worse. Write about that! Say how you saw the mouth o' hell, and the two pillars thereof at the entry—the pawnbroker's shop o' one side, and the gin palace at the other—two monstrous devils, eating up men, women and bairns, body and soul. Are na they a mair damnable man-devouring idol than any red-hot statue of Moloch or wicker Gogmagog, wherein auld Britons burnt their prisoners? Look at the bare-footed, bare-backed hizzies, with their arms roun' the men's necks, and their mouths full of vitriol and beastly wards! Look at that Irishwoman pouring the gin down the babbie's throat! Look at that raff o' a boy gae 'n out o' the pawnshop, where he's been pledging the handkerchief he stole this morning, into the gin shop, to buy beer poisoned wi' grains o' paradise, and cocculus indicus, and sant, and a damnable, maddening, thirst-breeding, lust-breeding drugs! Look at the girl that went wi' a shawl to her back and cam out wi' out ane! Drunkards frae the breast! Harlots frae the cradle! Damned before they're born.'

"Who will meddle with these social evils? Who will step in between cupidity and its victim? The writer fears there are too many who will answer to the description of such characters as Ralph Nickleby:— 'There are some men, who, living with the one object of enriching themselves, no matter by what means, and being perfectly conscious of the baseness and rascality of the means which they will use every day towards this end, affect nevertheless—even to themselves—a high tone of moral rectitude, and shake their heads and sigh over the deep depravity of the world.' But, we must interfere with such men; we must remove these social evils; we must prevent men from erecting death-breeding kennels. We must prevent your hard-hearted Nicklebys, who creep 'through life by its dirtiest and narrowest ways, and who keep a regular

debtor and creditor account with heaven,' from gloating over the monuments to their cupidity—the jails and alms-houses.

'Where then, ah where, shall poverty reside,  
To 'scape the pressure of contiguous pride!'

Mr. Sheriff Watson, one of the founders of Industrial Schools in England, remarks in a letter, "If we could restrict the use of intoxicating liquor out of prisens, as you have done it within, a juvenile delinquent would now seldom be seen within its walls; but no ordinary man's wages can stand the drain of the spirit-shop, and the demands of his children for food and education, and it too often happens that the whiskey-seller has the preference, and Juvenile Delinquency, as it is absurdly called, still disgraces our country." A father or mother converted into a brute by the indulgence of a base and depraved appetite, becomes to a family of little children like "a wild boar out of the woods turned into a garden of delicate flowers;" and nothing short of a miracle can possibly save their children from becoming vagrants. So formidable does the hydra-headed monster, Intemperance, seem to the Inspectors of the Philadelphia County Prison, that they are induced thus to speak of it in their Eighth Annual Report: "The House of Correction, when established, may be the means of reforming a few; but, as long as the cause is suffered to exist, we cannot expect to remove the evil; the only effectual remedy is to break up the low grogeries that are festering in all parts of the city. Let stringent laws be enacted and enforced in regard to the sale of intoxicating liquors, and our citizens will be relieved from the necessity of erecting a House of Correction, and the population of our Alms-house and Prisons will soon be reduced to one-half of its present number."

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## CHAPTER VII.

### JUVENILE VAGRANCY.

THE evils of the prevailing vice of intemperance are nowhere more plainly and painfully visible than in the Juvenile Delinquent institutions, the nativities of whose inmates clearly show among what class of our people the vice most prevails. A few facts will show the sources from whence juvenile vagrancy comes. Thus it is reported, by the Massachusetts Reform School, that of 324 inmates in 1849, there were 66 of



foreign birth, of whom 42 were Irish, and of the 268 native born, no less than 96 were of Irish parentage. So of 361 received into the New York Juvenile Asylum in 1853, there were 134 of foreign birth, and 80 more of Irish parentage; and of 278 admitted into the New York House of Refuge in 1850, there were 25 foreign born, and 163 more of Irish parentage. During the year 1853 there were received 112 in the Rochester House of Refuge, 73 of whom were of foreign birth, and of these 40 were Irish. Of 157 admitted into the House of Refuge, in 1853, at Cincinnati, 107 were foreign born. Marshal Tukey, of Boston, made a report to the Mayor of that city in 1849, respecting the number, character, social circumstances, &c., of the street children, in habits of vagrancy, wandering about and contracting idle habits, &c., from which it appears that the whole number of the class of children designated, between six and sixteen years of age, was 1066, which were arranged as follows: of American parents 103, and of foreign parents 963!

These are facts which speak in unmistakable language, but they are by no means all at command on the subject. It has been stated in the public journals, that of 16,000 commitments for crimes in New York city, during 1852, *at least one-fourth* were minors, and that *no less than 10,000 children are daily suffering all the evils of vagrancy in that city*. In 1849, the Chief of the Police Department of that city, called attention to the increasing number of vagrant, idle, and vicious children of both sexes, growing up in ignorance and profligacy, and destined to a life of misery, shame, and crime, the number of whom were given upon authority and with an exactness which claim confidence. He stated that there were then 2,955 *children of the class described*, known to the police in eleven patrol districts, of whom two-thirds were females between eight and sixteen years of age. "Most of these children," it was at the same time stated, "were of German or Irish parentage, the proportion of American born being not more than one in five."

Thus facts might be added to facts, showing the enormous amount of juvenile depravity in this country; but enough have been given to show the neglect of HOME CARE, and the necessity of devising means to improve HOME INFLUENCES.

Considering this condition of things in our country to exist, we need not be surprised at a remark of the Earl of ELLESMERE, who recently passed through our country. In presenting to the House of Lords a petition from the magistrates of Manchester, praying for the establishment of reformatory institutions for juvenile delinquents, he referred to what he had personally witnessed. "In the United States," he said, "education was in a more advanced position than in any other part of the world; but he would not be acting disrespectfully to those States in saying that, for want of some system of schools of a reformatory

description, much juvenile crime prevailed there." As is well remarked by the *Prison Discipline Journal*, he "was aware of the existence and character of our public institutions in *Philadelphia, New York, Rochester, Westborough, &c.*, but evidently regarded these (useful though they are) as no part of a *system*. He doubtless felt that where all power is lodged in the hands of the people, all the people should be wise and virtuous enough to use it without abusing it; and he had seen enough with his own eyes in his own land to satisfy him, that this virtue and wisdom are not wrought into men and women, whose infancy and childhood are passed in sottish ignorance and brutal sensuality, and hence his natural wonder that we had not a *system* of early education adapted especially to the lowest grade of children and youth."

## CHAPTER VIII.

### EDUCATION.

THE Bible teaches us that "righteousness exalteth a nation, but sin is a reproach to any people;" and if ignorance be the cause of poverty and of crime, and education the means of elevating man, it is the duty of the American people to adopt more efficient means to educate the friendless and homeless, and thus stay the progress of juvenile degradation and sin. More especially is this a public duty, in a republican form of government like ours, which ought not to be neglected. "The American Republic above all others, demands from every citizen unceasing vigilance and exertions," said Judge Story, "since we have deliberately dispensed with every guard against danger or ruin, except the intelligence and virtue of the people. It is founded on the basis that the people have wisdom enough to frame their own system of government, and public spirit enough to preserve it; and that they will not submit to have them taken from them by force. We silently assumed the fundamental truth that, as it never can be the interest of the majority of the people to prostrate their own political equality, so they never can be seduced by flattery or corruption, by the intrigues of faction or the arts of ambition, to adopt any measure which shall subvert them. If this confidence in ourselves be justified, let us never forget that it can be justified only by a watchfulness and zeal proportionate to our confidence. Let us never forget that we must prove ourselves wiser and better and purer than any other nation yet has been, if we are to count on success."

But it will be said that ample provision for the education of all has already been made, and that in no other country does there exist so perfect a system of Common Schools as in our own. This may all be so, and yet experience has shown that juvenile delinquency is rapidly on the increase, and that some further measures are necessary to arrest it. Our schools are open, it is true, to all; but it is a lamentable fact that many of the children of those who exercise no parental care over them, do not attend these schools, but grow up in ignorance, idleness, and vice, and that most of this class are children of foreigners. A brief examination of the statistics furnished by the last Census returns, will make this fact apparent.

According to the statistics of De Bow's Compendium of the United States, for 1850, there were then 9,516,538 native whites, and 1,344,346 foreigners in the United States, who were over the age of twenty; and these were found in the respective States, as follows:

| STATES.     | NATIVES.       | FOREIGNERS.    | AGGREGATE. |
|-------------|----------------|----------------|------------|
| Free,.....  | 8,649,001..... | 1,154,344..... | 7,803,345  |
| Slave,..... | 2,867,537..... | 190,002.....   | 3,057,539  |
| Total,..... | 9,516,538..... | 1,344,346..... | 10,860,884 |

The number returned of those over twenty years of age, who were not able to read and write, was 982,898 whites, and 90,522 free colored: making an aggregate of 1,053,420 illiterate persons in the Union. Of these there were:

| STATES.     | NATIVE.      | FOREIGN.     | FREE COLORED. | AGGREGATE. |
|-------------|--------------|--------------|---------------|------------|
| Free,.....  | 273,623..... | 174,936..... | 32,078.....   | 480,637    |
| Slave,..... | 494,161..... | 20,178.....  | 58,444.....   | 572,783    |
| Total,..... | 767,784..... | 195,114..... | 90,522.....   | 1,053,420  |

These returns show that about one-tenth of those who were over twenty years of age, including the free colored, were incapable of reading and writing, and one in every twelve of the white population. In the slave States, considerably over one-sixth of the number were thus illiterate, while in the free States only about one-sixteenth part were so. But the most remarkable feature is the proportion of foreign illiterate. In the Union it is twice that of the native; in the free States about 16 per cent.; in the slave States about 10 per cent.; whilst the proportion to the whole number of foreign is one in every seven in the United States.

According to the same returns, there were, in 1850, in the United States, 4,792,576 native whites, and 318,661 foreign whites, who were between five and fifteen years of age. Of the native whites, 3,915,620 were at school, making a percentage of 80.81 of native whites at school to those of five years and under fifteen, while the percentage of those of foreign whites at school, to those of the same age of their class, was 51.73.

These facts explain from whence the increase of juvenile delinquency comes. It may be safely assumed, that the advancement in knowledge is a fair criterion by which to judge the care and moral culture children have received, and thus judged, it must be manifest to all that to the immense foreign immigration we are indebted, to a very great extent, for the enormous juvenile vagrancy in the country. A fact worthy of notice, in this connection, was stated a year or two since by Judge Kelley, in his address at the opening of the Philadelphia House of Refuge for colored children, and it was this: "No graduate of the High School has ever been arraigned before the courts on a criminal charge; and no pupil of any public school, who had passed the third division of a Grammar school, is known to have been convicted." Bishop Potter states further, that, comparing the number of white adults who cannot read and write, adding a due proportion of colored persons and children, we shall find about one-twenty-ninth of the population who are unable to read and write. If education does not diminish crime, there should be a similar proportion found among the convicts; that is, one in twenty-nine should be unable to read, and the rest should be educated. But what is the true state of the case? One in two, instead of one in twenty-nine, are unable to read; showing that the tendency to crime among the ignorant is fourteen and a half times greater than it ought to be, on the supposition that education has no tendency to diminish crime.

Well may we adopt the language of a writer already quoted, and ask the American people "whether they intend to sit still and see this fair land gradually overrun by those giant evils that trample out the heart of Europe? Will they supinely wait till, like the Netherlands, one-fifth of the population are paupers? Has not Europe green fields and splendid palaces? Shall America rival her in these, and in her huts and filthy dens, and jails and alms-houses?"

"If a rich man dies the law appoints a guardian for his children. Certainly. It ought to do so. They have property, they must be educated, they must be placed in a proper sphere—in proportion to their money—they must be fondled, and nursed, and watched.

"It would be a pity if a young man, with such '*bright prospects*,' should become vicious; the world would wring its hands and sigh, and maudlin sympathy would drop a tear. But shall not the poor orphan have a guardian appointed for him? You say we have '*guardians of the poor*'—questionable, very. These only take charge when there is no other remedy; these take the poor child to a place where he will run from bad to worse.

"The alms-house and the jail are foul blots on the face of nature, mar-  
ring the beauty of God's world, covering the unsightly magnificence,  
the view of the church and school-house. Lay their corner-stones silently.

Build them in some secret place, and blush to own that, in free America, we boast of our prisons!

"If you do not remedy the evils I have pointed out, and take charge of the little children and inspect them in their homes, your houses of correction, alms-houses and jails will swell and increase, and will stand in massive, sombre magnificence, monuments to the folly of mankind.

"Seize, then, upon the little children. Devote your time and energies to the young, for 'just as the twig is bent the tree is inclined.' Let the *respectable* parent learn his or her duty, and train up the child in habits of obedience and piety. Let the community train up properly, all such as, from the force of circumstances, will otherwise necessarily fall into vicious and criminal ways, and juvenile delinquency will soon cease to engage our attention."

Important, then, as it is that all the children should be educated, and receive a moral and religious training, it is no less a well-established fact that a large portion of them, principally those of foreigners, grow up without either, and become pests of society. What then is the duty of the public towards these children? It has been well observed that "it is self-evident, that if a man provides his son with a good education, and with a trade or profession, he is not likely to become a pauper, or criminal; and if, on the other hand, the unfortunate child who has lost his parents, been born out of wedlock, or has drunken, ignorant, idle, vicious parents, is sure to become a criminal, some active means should be taken to place the latter class in the same favorable position as the former. But one course is open to the community, and that is, to adopt the victim of circumstances beyond its control, teach it how to live honestly and honorably, and juvenile delinquency will be banished from the land." No one doubts the right of the community to interfere in behalf of children, to protect them from brutal treatment. That is not disputed. Why then should it not also have the right, and exercise it, to oblige parents, or if there be none, to take them in public charge, and educate the poor and neglected children? The public interests, the perpetuity of the republican institutions under which we live, imperatively demand a remedy to be applied. "We must," says the writer already frequently quoted, "set in operation a wholesome system of schools, in addition to the noble common school system now in operation. Every friend of liberty, every true reformer, every one who has the good of the country at heart, must be in favor of a method which will prostrate vice, put down rowdiness, and prevent anarchy and misrule. Who govern us when they grow up? Who make our nominations and control our elections? The rowdies. Let us, while the boy is young, curb him, that we may not suffer from his acts when he comes to man's estate." Continuing in this strain, the same writer says:

"I would call that boy or girl an orphan—*de jure*, if not *de facto*—who had lost one parent, or whose parents had deserted it or were negligent of their duties. I would seize him and rear him, or her, in our *public manual-labor schools*. I would have guardians of public education; I would compel parents to educate their children, and in cases in which, from poverty, vice, drunkenness and neglect, one or all, children were not properly educated and trained to work, I would remove the children from the parent's custody. Shall I wait till the boy has been trained in vice? Shall I wait till he becomes a drunkard, thief, or worse? Shall I wait till the last spark of virtue has departed from the heart of the young female? till the *woman* is dead, and the fiend only liveth? Or, shall I provide means for preventing vice? Will public sympathy only step in—because it must do so in self-defence—when virtue and morality have departed, and vice and crime reign triumphant? I repeat the question,

"Who bids for the little children?"

## CHAPTER IX.

### PAUPER AND CONVICT IMMIGRATION.

LEGISLATION, to protect society against the evils growing out of the introduction into this country of foreign criminals and paupers, commenced simultaneously with the settlement of the first colonists. As early as 1639, the pilgrim settlers of Massachusetts, at Plymouth, required the removal of foreign paupers. See *Colonial Charters*, 1639 and '92, p. 252. And their next step was to require indemnity from the master. See *Statute in William III.* ch. 13. The same power was also early exercised by Virginia, not only to guard against the importation of paupers, but others. See *Tucker's Edition Black. Comm.*, vol. ii., App. 33. So it was by other Colonies. That of Pennsylvania had, from its first settlement, a law "for imposing a duty upon persons convicted of heinous crimes and imported into the Province," and another "for laying a duty on foreigners and Irish servants, &c., imported into the Province." These were, however, repealed as early as 1729-30, and a more stringent law was passed in their stead. See *Dallas' Edition of Laws of Pennsylvania*, vol. i., p. 252.

Many of the Colonies continued to exercise similar powers during the Revolution, and after peace was declared. Massachusetts, by a law in

1788, ch. 69, forbid refugees to return, and so did several other States. *See Federalist, No. 42.* The first naturalization laws passed by Congress, recognized this exercise of power, and expressly provided that such persons could not become naturalized without the special consent of those States, which had prohibited their return. *See Acts of 1790 and '95, U. S. Laws, vol. i., pp. 104, 415.*

At a later period, subsequent to the Declaration of Independence, and the adoption of the Federal Constitution, but before the organization of the General Government under that Constitution, the Congress of the old confederation also took action upon the subject. On the 16th of September, 1788, three days after it had announced the adoption of the Constitution by the requisite number of States, directed Presidential Electors to be chosen, and fixed the 4th of March, 1789, as the time for the new government to commence, it unanimously adopted the following resolution :

*"Resolved, That it be, and it is hereby, recommended to the several States to pass proper laws for preventing the transportation of convicted malefactors from foreign countries into the United States."* *See Journal of Congress for 1788, p. 867.*

Pursuant to this recommendation of the Continental Congress, the States passed laws in conformity therewith. Virginia passed a law on the 13th November, 1788, forbidding masters of vessels from landing convicts, under a penalty of fifty pounds. South Carolina and Georgia passed similar laws the same year. So did New York. Massachusetts followed the example, in 1791, and Pennsylvania passed an act in 1789, providing "that no captain of a vessel, or other person, shall knowingly or willingly bring, import, or send, or so cause to be, or be aiding or assisting therein, into this Commonwealth, by land or water, any felon, convict, or person under sentence of death, or any other disability, incurred by a criminal prosecution, or who shall be delivered, or sent to him or her from any prison or place of confinement in any place out of the United States," &c. *See Dallas' Edition of Laws of Pennsylvania, vol. ii., p. 692.* And this principle has been carried out ever since by various enactments by the different States, and been extended by them to exclude paupers and others, as well as convicts; and it is not a little remarkable, says Justice Woodbury, in the cases of *Norris v. Boston*, and *Smith v. Turner*, that while it has been exercised by various States in the Union—some as to paupers, some as to convicts, some as to refugees, some as to slaves, and some as to free blacks—it never has been exercised by the General Government as to mere aliens, not enemies, except so far as included in what are called the "alien and sedition laws" of 1798. By the "act concerning aliens," power was assumed by the General Government in time of peace to remove or expel them from the

country, and it, no less than the Sedition Act, was generally denounced as unconstitutional, and suffered to expire without renewal since, and on the ground, among others assigned for it, that if such a power existed at all, it was in the States, and not in the General Government, unless under the war power, and then against alien enemies alone. See *Elliott's Debates*, vol. iv., 581—*Virginia Resolutions of 1798*.

The exportation of convicts and paupers into the United States, by some of the European governments, has of late years increased to an alarming extent; and the evils which have grown out of the admission of this class of foreigners are very seriously felt in all our great cities, and loudly call for some legislative remedy. As early as 1836 and '37, the evil attracted the attention of the municipal authorities of Boston, New York, Baltimore, and New Orleans, and efforts were made by them to guard against it. In Massachusetts, the subject was brought up in the Legislature, in 1836, which, after some consideration, adopted the following:

*Resolved*, That it is expedient to instruct our Senators, and request our Representatives in Congress, to use their endeavors to obtain the passage of a law to prevent the introduction of foreign paupers into this country, and to favor any other measures which Congress may be disposed to adopt to effect this object.

This resolution was presented in the United States Senate, May 2, 1836, by JOHN DAVIS, who availed himself of the occasion to submit some startling facts on the subject. His speech may be found in the *Congressional Debates of 1835-6*, vol. xii. part 2, p. 1378. The following are extracts from it:

"It is well known that pauperism in Europe has become a great and oppressive burden. In England, especially, it has become so powerful in numbers and physical power as to be, in some districts, almost uncontrollable. The number had not, to his knowledge, been accurately ascertained; but the means were at hand to prove that the aggregate and power were great and oppressive. It appeared, from Parliamentary documents, that, in 1818, the sums expended by the parishes, in England and Wales alone, where these corporations provide for the poor, amounted to about thirty-eight millions of dollars, a sum greater than the whole revenue of this country for public purposes. The burdens, as well as other evils, were so severely felt, that public attention had been drawn to the subject, with a hope of obtaining relief. Much had been written and much said, but no efficient action had taken place up to 1833, when the King appointed a commission, with large powers, to collect evidence and report to the Parliament. The commissioners appointed a large number of sub-commissioners, assigning to each a district, and authorizing them to collect evidence and report to the general board. They proceeded in the execution of their duty, and their reports, with the evidence, went with the report of the general board into Parliament, when they were published, and fill a large number of closely printed folio volumes, which are in the possession of the United States. These volumes shed light upon this subject, which may well fill the mind with astonishment.



"This (said Mr. D.) brings me to a point where I will show the interest which the American people have in this matter. In the course of the inquiries made by the commissioners, they discovered that some of the parishes had, of their own accord, and without any authority in law, as it seems, adopted the plan of ridding themselves of the evil by persuading the paupers to immigrate to this side of the Atlantic. And whom, Mr. President, did they send? The most idle and vicious; furnishing them with money, besides paying their passage, and then leaving them on this continent, either to reform or to rely on the people here for support. The commissioners, forcibly impressed with the efficiency of this plan, as a complete remedy, strongly recommended to Parliament to adopt it, and to authorize the parishes to raise money by taxes for this purpose. They proposed, too, that the most idle, debauched, and corrupt—the incurable portion—should be selected for this purpose, while the better portion should be left, to be reclaimed when detached from the force of evil counsel and evil example. They do not, it is true, propose to send them to the United States; this would be too bold a proposition, but it seems they have no objection to their finding their way hither. True to their own sentiments and unconquerable idleness, these paupers no sooner reach here than they cast themselves upon the public for support. Those acknowledging themselves to be pauper immigrants, have been repeatedly found in the House of Industry in Boston, with the very money received from the parish concealed about them, and in some instances, to prevent detection, sewed in their clothes. Out of 966 persons received into that place during the last year, 516 were foreigners; not all, by any means, of this class, nor is it possible to ascertain how many. In this way, Massachusetts disburses from her public treasury over fifty thousand dollars annually to relieve foreign paupers, and this but imperfectly meets the expense. She has attempted to modify the evil by countervailing legislation, by requiring bonds from the masters of vessels bringing foreign passengers, conditioned that for a given period they shall not become chargeable to the public. This, however, proves inadequate; for while her laws on this subject are more humane than some of her adjoining States, the immigrants will find their way into the commonwealth. Many, doubtless, are sent out to the neighboring provinces, and thence come to us coastwise; others, perhaps, have or will enter by the Canada frontier, and penetrate to places where they can find the best provision for them. They have been detected in New York as well as in Massachusetts.

"Now, sir, is it just? Is it morally right for Great Britain to attempt to throw upon us this oppressive burden of sustaining her poor? Shall she be permitted to legislate them out of the kingdom, and to impose on us a tax for their support, without an effort on our part to countervail such a policy? Would it not be wronging our own virtuous poor to divide their bread with those who have no just or natural claims upon us? And above all, sir, shall we fold our arms and see this moral pestilence sent among us to poison the public mind and do irremediable mischief? Sir, I hope this country will always afford an asylum to the worthy and the oppressed of all classes and conditions; but humanity makes no appeal to us to receive and cherish those who have no respect for virtue, morality, or themselves; those who are forced among us because they are too corrupt, debauched, and indolent to be tolerated in a country not over-scrupulous in its morals."

No further action seems to have been taken by either branch of Congress, notwithstanding the facts presented by Ex-Governor Davis, during

the session of 1835-6, than the adoption of the following resolution by the Senate :

*Resolved*, That the Secretary of the Treasury be directed to cause to be collected and laid before the Senate, at its next session, all such facts and information as can be obtained through the Custom House, or from other sources, respecting the deportation of paupers from Great Britain and other places; ascertained, as nearly as possible, to what countries such persons are sent, where landed, and what provision, if any, is made for their future support.

During the summer of 1837, the City Councils of Boston made some effort to arrest the growing evil, and, among other things, directed the then Mayor to confer with other municipal authorities on the subject, with a view of effecting their co-operation in memorializing Congress for some remedial legislation, which he did, as may be seen in *Niles' Register*, vol. *lv.* p. 46. In Baltimore, the same evil was experienced to an alarming extent at the same period. A ship load of Hessian convicts, 260 in number, were brought into port, with manacles and fetters remaining on their hands and feet until within the day of their arrival. General Smith, then Mayor, on discovering the character of the passengers, detained the vessel at Fort McHenry until he could communicate with the United States authorities at Washington, but he was informed, on inquiry, that there was no remedy, and so he had to permit the convicts to be landed, and turned loose to prey upon society. See *Niles' Register*, vol. *lv.* p. 44. At Newark, N. J., the City Councils also had their attention called to the subject. About this time, a gross violation of the Quarantine laws was perpetrated by the master of the British ship *Lockwoods*, who landed his pauper passengers at Amboy and went to sea; and still more of the same class were then about arriving or being landed, as appears from the following communications. See *Niles' Register*, vol. *lv.* pp. 250, 259, 265 :

*Quarantine, June 2, 1837.*

DEAR SIR—I have just learned that the following British ships are now on their way here, with orders to land their passengers at Amboy, viz.: *Phœbe*, with 325 passengers; *Sherbrook*, with 202; *Harriet*, with 246: 773 paupers—to be sent into our city.

Yours respectfully,

WILLIAM ROCKWOOD,  
Health Officer.

AARON CLARK, Esq.

*Mayor's Office, New York, June 5, 1837.*

GENTLEMEN OF THE COMMON COUNCIL—The laws of this State require that the captain of every ship or vessel, landing passengers in this city from a foreign country, or from another State, shall report the name, last legal settlement, place of birth, age or occupation of such passenger, to the Mayor of the city, within twenty-four hours after arrival, under a penalty of \$75 for each passenger so neglected to be reported: and that

every person *not being a citizen of the United States*, coming to this city with the intention to reside, shall report himself to the Mayor within twenty-four hours after arrival, under a penalty of \$100 for neglecting to do so. \* \* \*

The opinion is entertained that there is a settled arrangement in some parts of Europe to send their famishing hordes to our city. The operations of certain companies have been noticed. But contractors are becoming so covetous that they afflict this country with a pauper population in consideration of receiving from steerage passengers more than \$2 per head extra, for agreeing to land them in New York; instead of which these traders in foreign paupers secretly clear their vessels for Amboy, in New Jersey; there to land the said passengers, and thereafter send them to New York by other conveyance, or leave them to provide for themselves. Our city is generally the place to which they *contract* to be carried on leaving Liverpool.

This business is likely to be fiercely driven throughout the ensuing year. Hundreds of thousands of the population of portions of Europe are in a state of poverty, excitement and wretchedness—the prospect before them very discouraging. The old country has more people than it is convenient to support. And although many of them feel no particular anxiety to leave their native land, they see others depart—they read the mixture of truth and fiction, published by those employed to obtain passengers—they are assured they can easily return if they are not suited with the country—that certain employment, enormously high wages, and almost sure wealth await them. The times being more unpromising in other countries than in our own, they imagine they cannot change for the worse, and hither they come. They cannot fail to be an *intolerable burthen* to us. As soon as they arrive within our limits, many of them begin to suffer and to beg. Some of those by the “Lockwoods” commenced as mendicants on the first day they saw our city, and some of them on the first night thereafter sought the watch-house for a shelter; others solicited aid at the Commissioners’ office, and not a few at the Mayor’s residence. Nearly 2,000 arrive each week, and it is not likely that many months will elapse before the number per week will be 3,000. In the Boreas, which came in on Saturday, there were about 150 steerage passengers. They were landed from a lighter, near the foot of Rector street, at 10 A.M., on Sunday. Some of them declared they had not means to obtain one day’s storage for a chest.

Our streets are filled with the wandering crowds of these passengers—clustering in our city—unacquainted with our climate—without money—without employment—without friends—many not speaking our language—and without any dependence for food, or raiment, or fireside—certain of nothing but hardship and a grave; and to be viewed, of course, with no very ardent sympathy by those native citizens whose immediate ancestors were the saviours of the country in its greatest peril. Besides, many of them scorn to hold opinions in harmony with the true spirit of our government. They drive our native workmen into exile, where they must war again with the savage of the wilderness—encounter again the tomahawk and scalping knife—and meet death beyond the regions of civilization and of home. It is apprehended they will bring disease among us; and if they have it not with them on arrival, they may generate a plague by collecting in crowds within small tenements and foul hovels. What is to become of them? is a question of serious import. Our whole alms-house department is so full that no more can be received there without manifest hazard to the health of every inmate. Petitions signed by hundreds, asking for work, are presented in vain. Private associations for relief are almost wholly without funds. Thousands must therefore wander to and fro on the face of the earth—filling every part of our once happy land with squalid poverty and with profligacy. \* \* \*

By Chapter 56, Section 16, of the laws and ordinances of the city of New York, it is enacted, that in all cases where the Mayor shall deem it expedient to commute for alien passengers arriving at this port, instead of requiring indemnity bonds, he is authorized to receive such sum, in lieu of such bonds, as he shall deem adequate, not less than one dollar and not more than ten dollars, for each passenger. I deem it my duty to inform the Common Council, that it is my intention, hereafter, in all cases where it would not be unreasonable, to require and demand ten dollars for such commutation, from each alien passenger. And on advising with the Commissioners of the almshouse as to this intention, I am authorized to say that they approve and unite with me in it; and I am bound to believe that it will receive the sanction of the public. Our city should not, whenever it can be avoided, receive more persons likely to become chargeable: It will be a herculean task to employ and take care of those who are already within our jurisdiction. Our funds appropriated for charitable purposes promise no overplus. Provisions, fuel, and clothing for the almshouse, are still very expensive.

Laborers are not sought after, and while we pity the griefs and sorrows of all our fellow-creatures, we cannot deny that a preference, in the distribution of charities, as well as place and employment, is due to the descendants of the soldiers of the Revolution, and to the heroes and sufferers of the second war of independence. It was asked by the fathers of American liberty. It has been promised to their sons. It cannot be conceded to aliens without great indignity to our native and adopted citizens; and if foreign paupers and vagrants come here for political purposes, it is proof irresistible "that our naturalization laws ought to be immediately revised," and the term of residence greatly extended to qualify them to vote or hold office. Many are, I admit, orderly, well-disposed men—but many of them are of the opposite character. It is believed the action of the Common Council in the premises is particularly desirable. Our citizens had no serious turn-outs—no riotous parades—no conspiracies against the business and families of quiet, industrious and honest American operatives, until after officious interference by mischievous strangers, and it is melancholy to observe, that, in the mad career of some of these foreigners to destroy our happy system, they have lately recommended to a large meeting of our citizens that they should carry with them deadly weapons, of various kinds, to all our future public assemblages. These wild strangers should learn that to do so, is not "peaceably" to assemble, as provided by the Constitution. Indeed, a reason for taking proper measures to diminish the number of arrivals, is drawn from the fact, that, in addition to the great and grievous expense they would add to the city, should they continue to be numerously thrown upon us, the Common Council will be called upon to provide an armed and a mounted police for both day and night time. Peace cannot be otherwise expected. Many of them come from places where nothing less secures tranquillity.

AARON CLARK.

This message was referred to the appropriate committee, which some time afterwards made the following report :

The committee on laws, to whom was referred the message of his honor the Mayor, relative to the Quarantine laws and alien passengers, beg leave to report in part—That its members have felt a deep interest in the very important matters which the Mayor has so promptly, in the discharge of his official functions, brought before the notice of this board; that upon a proper and discreet settlement of the interesting questions submitted in the communication, depend the peace, prosperity, and good order of this city.

The immense numbers of persons arriving at this port, fleeing from the poverty, starvation and oppression of Europe, is calculated, certainly, not only to excite our sympathy for these unfortunate beings, but to create a well-founded alarm as to the results upon our municipal prosperity, as well as the character and morality of our population. The greater number of these immigrants (for there are those who, devoted to agricultural pursuits, and bringing with them some little property and a good reputation, are calculated to add to the resources of the commonwealth,) are absolutely penniless and reeking with the accumulated filth, which long confinement on ship-board and an habitual want of cleanliness produce; they almost immediately on their arrival, roam the streets, a band of houseless mendicants, or apply to your alms-houses for succor. Crime succeeds destitution. Your prisons are filled—your hospitals are crowded with them, and your public treasure is spent upon those who never contributed a cent to the general welfare.

It is just—it is in accordance with the best feelings of the human heart to commiserate the sufferings of humanity, however degraded; but in the opinion of your committee, this city owes a paramount duty to itself and the country of which it is the general emporium. She is bound by wise and efficient laws to prevent the jails and work-houses of Europe, from pouring out on our shores their felons and paupers; to prohibit her from introducing here those whom she is bound by every consideration of justice to support; to prohibit her from disgorging on our people, a population with principles calculated to lower the tone of morals and disorganize the frame of our republican institutions.

During the last year 60,541 passengers arrived at this port. The number has greatly increased this season, the average being very nearly 2,000 a week. The alms-house is full, containing at this moment 3,074, of which three-fourths are foreigners. *In fact, our public charities are principally for the benefit of these foreigners*; for of 1,209 persons admitted into the hospital at Bellevue, 962 were aliens. The expense of the alms-house establishment and its dependencies, last year, amounted to \$205,506 63-100.

Your committee, therefore, recommend the passage of the following resolutions:

*Resolved*, That it is the opinion of this board, that the Mayor may be requested to enter into a correspondence with the Executives of the States of New York and New Jersey, and such other persons as to him may seem proper, touching the enforcement of the health laws and passenger act.

*Resolved*, That this board approve the decision of his honor the Mayor, in raising the amount of commutation money heretofore paid by foreign passengers.

M. C. PATTERSON, *Chairman*.

D. RANDELL.

On the 30th of April, 1838, Mr. Russell, of New York, submitted the following in the House of Representatives of the United States, which was adopted:—

*Resolved*, That the President of the United States be requested to communicate to this House copies of all correspondence and communications which have passed between this and any foreign governments, and the officers and agents thereof, relating to the introduction of foreign paupers into the United States; also, what steps, if any, have been taken, to prevent the introduction of such paupers into the United States; provided such communication is not incompatible with the interests of the United States.

In reply to this request, President Van Buren forwarded the following among a number of other documents, to Congress. See *Niles' Register* vol. lv. p. 44:—

MR. HARRISON TO MR. LIVINGSTON. (EXTRACTS.)

*Consulate of the United States, Kingston, Jamaica, June 28th, 1831.*

SIR.—I do myself the honor to inform you that I was called upon yesterday by most of the masters and supercargoes of American vessels now in this port, who complained of a law which obliges all foreign vessels under one hundred tons to take a pauper (or such other person that it may be desirable to get rid of) on board, and carry him or them off the island; and those above that size, one for every hundred tons burden, at the rate of \$10 each, under a penalty of £100 currency or \$300.

It appears when a pauper wishes to leave the island, it is only necessary to select the vessel he is desirous to go in; he then accompanies the officer charged with the execution of the law in question to the consignee, to whom the \$10 is tendered for the men's passage, and, if refused, the fine is then inflicted. \* \* \* \* \* I have no means, while I remain unauthorized to act in an official character, to ascertain the number of persons who have been thus clandestinely introduced into the United States; but I am informed that there are now about *one hundred in the hospital at Kingston alone*, and as there are scarcely any other foreigners trading to the colony but Americans, the greater part of those people will find their way to the United States in the manner already described to you

*Consulate of the United States, District of Kingston-upon-Hull-Tees, Aug 30, 1836.*

SIR.—I have the honor to acknowledge the receipt of your circular of the 7th of July, requesting information as to the deportation of paupers from Great Britain, &c.

I have in consequence been making particular inquiries on the subject throughout my consular district. I find that no list that can be relied on of passengers sailing from Hull, is kept at the custom house, which distinguishes the paupers from those of a better class. Regular muster rolls are kept, but the parties are merely described by their names, ages, and from whence they come, and occupation.

The officers of the customs are well aware that paupers do proceed both to the United States and Canada; and it has been admitted by the owners of several vessels sailing there, that their passengers are paid by the overseers of the parishes to which they belong. The mode of doing this varies according to the trustworthiness of the pauper: if good, he is trusted to make his own bargain, and generally has a trifle of money advanced to him for use when he quits the vessel, to enable him to get up the country. If the man is a bad character, he is generally the best off, as the overseers pay his passage money and procure for him the necessaries for his voyage; the man then turns restive, and oftentimes refuses to go, unless more money is given him, generally £5 or £10 more than was first agreed on. So that the worse the character, the better able the pauper is to make his way when he quits the vessel. One ship-owner, whose vessel sailed this year to the United States from Hull, and who has had several previously, says he believes that nearly all the passengers go to the back settlements, to their friends who had previously gone there, and had written for them; and that it very rarely happened that any family went out on a roving expedition, not having an object. It appears that the greatest immigration from Hull is to Canada, whither passage money is reduced, and many instances have been discovered where the overseers have agreed with the

paupers, and paid their passage money for the United States; but the paupers have adopted the plan of getting there through Canada, on account of the moderate charge of the passage; by which means they have taken more money with them into the country.

It is the general opinion of the owners of vessels, that during the last two years the number of paupers immigrating to United States and Canada has been very much diminished. Very few have gone there from this large county (Yorkshire), as labor has been easily obtained and wages have improved.

A merchant who had a vessel sailed from the port of Hull this year, with several families, states that all but three appeared able to bear their own expenses, and some, though in appearance poor, were known to have in their possession considerable property. Another counteracting effect of the immigration of paupers, is the return of several within the last year or two, to their parishes, which are bound to receive them, and the knowledge of such proceedings deters other overseers from being so ready to assist as they were some years ago. Liverpool being the principal port from whence immigration takes place, I beg to enclose you herewith a statement (A) that has been published of the number who have sailed from the 1st January to the 5th July last, designating the countries to which they have gone and the number for the years 1833-34 and '35.

A society was formed some time since for the purpose of sending young females out to New South Wales, but, as will be perceived by the enclosed resolution (B) passed by them, they now decline recommending any further immigration there, owing to the excessive immorality stated to prevail there.

With great respect, I am, sir, your most obedient servant,

ALBERT DAVY.

Consul U. S. A. Kingston-upon-Hull.

Hon. LEVI WOODBURY, Secretary of the Treasury, Washington.

*United States Consulate, Bremen, Sept. 5, 1836.*

SIR—I have the honor to acknowledge the receipt of your esteemed circular of the 7th of July, 1836, requesting information respecting deportation of paupers from Great Britain, and other places, &c. I am sorry that the information is not to be procured from authentic sources, for, properly speaking, it cannot be said that paupers are deported from Germany, though it may sometimes (but very rarely) be the case that families, almoners, and civil authorities, in order to get rid of a burdensome fellow or troublesome subject, pay what is necessary for such a person to cross the Atlantic—but among the German immigrants, a great number of whom annually embark at this port, and who nearly all go to the United States, there are many persons and families who, when they have paid for the passage, have little or no money left, and probably many of them, on arriving in the United States, are quite destitute of all. The different governments of Germany are in general not much pleased with the spirit of immigration, several years since predominant in Germany, and, as is said, try by all means to keep their subjects at home. The immigrants very often loudly and bitterly complain that the said governments, before they give the people the permission to depart, put as many obstacles as possible in the way of the persons who intend to immigrate. Such immigrants, as I hear, must usually prove to their governments that they have money enough to pay their travelling expenses and for their passage, the said governments being afraid that the immigrants may, by travelling, uselessly spend their little fortune, and then return, and come on the charge of the community, and the immigrants are therefore obliged to renounce and give up all their rights as natives of the country. After the

immigrants have got the permission to immigrate and set out, then their former governments do not further care for them.

The letters or circulars addressed to the United States Consuls at Hamburg, Munich, Leipsic, and Cassel, which were sent to me with the said circular of the 7th of July last, enclosed, have immediately been put in the post-office.

I have the honor to remain, with the greatest respect, your most obedient servant,

For JOSHUA DODGE,

H. W. BOHME.

To the Hon. LEVI WOODBURY, Secretary of the Treasury, at Washington.

*Consulate of the U. States of America, Leipsic, March 8th, 1837.*

SIR—On receipt of your circular letter of July 7th, 1836, I made inquiries in respect to the transport of paupers from this country to the United States; but state affairs being conducted not so openly as may be desired, I have not been successful until of late, when, by confidential communications, I have learned things which will require energetic measures upon the part of the United States to be counteracted.

Not only paupers, but even criminals, are transported from the interior of this country to the sea-ports, in order to be embarked there for the United States.

A Mr. De Stein, formerly an officer in the service of the Duke of Saxe Gotha, has lately made propositions to the smaller States of Saxony for transporting their criminals to the port of Bremen, and embarking them there for the United States, at \$75 per head, which offer has been accepted by several of them. The first transport of criminals, who, for the greater part, have been condemned to hard labor for life, (among them two notorious robbers, Pfeifer and Albrecht,) will leave Gotha on the 15th of this month; and it is intended to empty, by-and-by, all the work-houses and jails of that country in this manner. There is not a doubt that several other States will imitate this nefarious practice. In order to stop it, I have sent an article into the General Gazette of Augsburg, wherein I have attempted to demonstrate that this behavior was contrary to all laws of nations, and that it was a shameful behavior towards a country which offers the best market to German manufactures.

It has of late, also, become a general practice in the towns and boroughs of Germany, to get rid of their paupers and vicious members, by collecting means for effectuating their passage to the United States among the inhabitants, and by supporting them from the public funds.

This practice is highly injurious to the United States, as it burdens them with a host of paupers and criminals, and also deters the better and wealthier class of the inhabitants of this country from immigrating to the United States. The property the latter class has of late exported annually to the United States, has been calculated at a sum of from two to four millions of dollars, and it is to be expected that this very profitable immigration would increase from year to year, in case the honest people of this country would not have to fear to be associated in the new country with the worst class of their countrymen. This, indeed, seems to be the secret motive of the above-mentioned measures. It is intended to stigmatize thereby that country which the wealthier class of the farmers and mechanics commence to consider as the land of promise.

To remedy that evil, I would propose the following measures. 1. That all persons intending to immigrate to the United States, would have to produce to the Consul of the United States, in the sea-port, a testimonial from the magistrate of their residence, purporting that they have not been punished for a crime (political punishments ex-



cepted) for the last three years; that they are able to maintain themselves by their labor or capital. 2. That the Consul of the United States, in the sea-port, should have to certify these testimonials; and that the masters of ships, who would take a passenger without such a testimonial, should have to pay a considerable fine on landing him in the United States. 3. That the Consul of the United States, in the sea-port, should have power to refuse his certificate to all those immigrants who, in his opinion, would become a burden to the community on their arrival in the United States.

I am, sir, with high consideration, your most obedient and humble servant,

F. LIST.

Hon. LEVI WOODBURY, Secretary of the Treasury.

The message and accompanying documents were referred to a Select Committee, of which Mr. Russell, of New York, was made chairman, who made a report, July 2, 1838, accompanied by two bills, one for the revision of the naturalization laws, and the other in relation to the introduction of foreign paupers and convicts. Mr. Beatty, from the Butler district, Pennsylvania, who, happening to be a naturalized citizen, for reasons stated by him, asked for time to submit a counter report, in response to the monstrous doctrines which, he said, were contained in the report. They were the doctrines of '98, revived in full force. He stated that the gentleman from New York had had the whole session to prepare his report, and had only presented it now on the eve of the session. After some remarks from Messrs. Hamer of Ohio, Garland of Virginia, Rhett of South Carolina (who dissented from the views of the majority), Lincoln of Massachusetts (who assented to them), Reed of Massachusetts, Hoffman of New York, and Russell of New York—Mr. Cushman of New Hampshire, moved the previous question, which prevailing, the bill was committed, and no further action was had on it during the remainder of the session. *See Congressional Globe of 1837-8, p. 489.* At the next session, on the 4th of February, 1839, Mr. Russell again made an effort to obtain action thereon. He said it would be recollected by the House, that, last session, the Select Committee on the subject had reported a bill to prevent the introduction of foreign paupers and convicts into the United States. Subsequent events had shown the importance of that bill, and the necessity of action upon it, and he, therefore, moved that the bill be made the special order for next Thursday week. Mr. Cambreleng hoped no more special orders would be adopted, especially as they had several already. Other objections were made; Mr. Russell moved a suspension of the rules, but the motion was rejected. *See Congressional Globe of 1838-9, p. 168.*

No further movement on the subject, it appears, was made in Congress until the session of 1844-5, and then no definite action was had. In the mean time, however, the practice of importing into this country, from Europe, the refuse of her population, which had for years been practiced by

some of the authorities of Great Britain, was renewed by some of the German States, as will be seen by the letter noticed below. A letter from the American Consul at Hesse Cassel, as we learn from the *Newburyport Herald*, published in 1839, states that the government of Hamburg deported from time to time these criminals, who had either been condemned for life, or a long period. They gave them the choice, either to endure their time or immigrate, in which case the government paid their passage. The letter of the Consul stated as follows :

"This price the Bremen ship-owners could only afford by always carrying a large number, to obtain which, they had their agents over the interior of Germany, and induced the lower class which live in a very impoverished state, to immigrate, by making them believe that laborers were so much demanded in the United States, that able-bodied men could earn as soon as landed two dollars a day."

Another letter from Mr. List, Consul at Leipsic, published in the same paper, stated :

"Not only paupers, but even criminals are transported from the interior of this country, in order to be embarked there for the United States."

We learn, also, from *Niles' Register*, Nov. 16th, 1839, vol. lvii., p. 177, that a Mr. De Stein, formerly an officer in the service of the Duke of Saxe Gotha, had then lately made propositions to the smaller States of Saxony, for transporting their criminals to the United States at \$75 per head; which offer had been accepted by several of them. The first transport of criminals, who for the greater part had been condemned to hard labor for life, (among them two notorious robbers, Pfeifer and Albrecht,) would leave Gotha on the 15th of the month, and it was intended by and by to empty all the work-houses and jails of the country in this manner, and there was little doubt that several other States would imitate the nefarious practice. It had evidently become a general practice in the towns and boroughs of Germany, to get rid of their paupers and vicious members, by collecting the means for effecting their passage to the United States, among the inhabitants, and by supplying them from the public funds.

Notwithstanding these evidences, however, of foreign governments thus flooding our country with their convicts and paupers, Congress could not, it would seem, be aroused to the danger. During the session of 1844-45, Hamilton Fish, of New York, again introduced the subject in the House of Representatives, and a resolution was, on motion, adopted, directing the Committee on the Judiciary to "report to the House whether any, and if any, what further legislation is necessary to prevent the introduction of foreign paupers or criminals," but no report seems to have been made or further action had. See *Congressional Globe* 1844-45, p. 209. In the Senate, at the same session, Mr. Johnson, of Louisiana, offered a resolution re-

questing the Secretary of State "to communicate to the Senate such information as may be in possession of the Department of State, as to the practice of foreign governments in transporting their criminals and paupers into the United States; and he shall also communicate copies of such instructions, if any, as may have been given by the government of the United States to its consuls and other agents in foreign governments upon this subject, and copies of such reports, if any, as may have been received from such consuls and agents in relation thereto;" but it does not appear to have ever been considered or passed. See *Congressional Globe* 1844-45, p. 48.

## CHAPTER X.

### PAUPER AND CONVICT IMMIGRATION—CONTINUED.

ON the 3rd of March, 1845, Mr. Berrien made a report in the Senate from the Committee on the Judiciary, to which had been referred sundry resolutions and memorials in relation to immigration of paupers and convicts, from the testimony accompanying which the following abstract is made. See *Senate Document* 173, 28th Congress, Second Session.

Dr. Samuel B. Martin returned, in writing, the following statement, in reply to interrogatories propounded to him, and was sworn thereto :

*Baltimore, February 3rd, 1845.*

GENTLEMEN—I commence by stating, that I had the honor of serving this, my native city, in the capacity of health officer, for fifteen years.

In the year 1826, during the *six months* of my duty, (I was only required to visit and examine the vessels, and persons on board, from the 1st of May to the 1st of November, of each year,) I examined into the condition of 1,604 foreign passengers. In my annual report of that year, I called the attention of the mayor and councils of the city to the great influx of passengers, among whom I discovered a number of paupers, &c.

In the year 1830 (six months thereof), there arrived at this port 4,084 foreign passengers. I again called the attention of the mayor and councils to the subject; for which see my report, in the Appendix to the city ordinances, dated 26th December, 1830.

In the year 1831 (six months thereof,) there arrived at the port of Baltimore 4,381 foreign passengers. I again renewed my call on the attention of the mayor and councils to the growing evil, and to the important fact of the introduction among us of the *half-lame*, and the *blind*.

In the year 1832, (during six months,) there arrived 11,546 foreign passengers. I found it necessary to reiterate my call on the mayor and councils, for their attention to the condition of those immigrants, much the same as in my former complaints. This re-

port alludes to the introduction of both *paupers* and *criminals*. My information was procured from masters of passenger vessels.

In the year 1833, (six months thereof,) we had an accession of 8,339 immigrants. Their condition the same as in former reports.

In six months of the year 1834, there arrived at the port of Baltimore 7,463 foreign passengers. I here again complained of the tide of immigration still setting in upon us. See Appendix to city ordinances, page 31, of the year 1835.

During six months of the year 1835, the number of immigrants amounted to 3,843. Once more I renewed my call on the mayor and councils, in my annual report. See Appendix, &c., for 1836, of city ordinances.

During six months of 1836, we had an accession of 5,268 foreign passengers. I here ceased to make my complaints, as there appeared to be no notice taken of them.

During six months of the year 1837, there arrived 5,941 foreign passengers. No further call was made by me on the attention of the mayor and councils, yet their condition was no better than in former years.

During six months of the year 1838, the number of immigrants was 4,909. I continued silent as to their condition, not feeling disposed to be importunate. This was my last (fifteenth) year of the duties of health officer, the new mayor deeming it proper to change his officer.

In the foregoing statement, I commenced with the year 1829, because during the years preceding the number of immigrants was but small that came under my inspection, and less exceptionable as to character; indeed, they appeared quite like another people—mostly good mechanics, farmers, &c.—and, in the general, possessed of means to acquire a proper subsistence amongst us. The impression made on my mind by the character and condition of the immigrants, since 1828, was, that they had become an insupportable burden in their own country, and were induced, by false pretences, and sometimes by force, to leave their country for this—the *actors* or *agents* in the matter under consideration being impelled thereto by the expectation of emolument to themselves by rendering service to the districts of country from whence these deluded people came, and holding out to them the prospect of a “*land flowing with milk and honey.*” I feel, also, very confident they (the actors behind the curtain) must therein have some *political views*.

I here subjoin extracts from my annual communications to the authorities of the city of Baltimore, alluded to in this my answer to your first interrogatory, and in part to the fifth, and also to the sixth.

1828. “Many (passengers) arrived here very destitute indeed, which *will have* a tendency to increase our poor-rates rapidly.”

1829. “I beg to be excused for again calling your attention to the great influx of passengers, (foreign immigrants alluded to,) without the least regard to their ability (in many cases) for a maintenance—some lame, blind, others in a state of *idiocy*. I was informed by a respectable master of a vessel, that, two years since, a number of passengers were provided for, their passage money paid, &c., by the parish to which they belonged, and sent to this country in the vessel which he commanded.”

1830. “A sense of duty impels me *again* to solicit your attention, not only to the increasing influx, but also to the condition, of strangers arriving at this port, both in foreign and American vessels. The increase every year is remarkable; the condition of many *deplorable indeed*, both as to their pecuniary resources, as well as to their infirmities, mental and physical. Paupers continue to be sent (or brought) to us in considerable numbers; to meet which, it appears to me highly necessary some measures should be adopted.”

1831. "Foreigners, 4,381; in which number, as usual, are comprised many paupers; a number *halt, lame, and blind*. This circumstance I feel it my duty to again represent as a growing evil, arising out of the facility with which such description of population may be introduced here, which, in other sea-ports, is denied to passenger ships. Vessels, both foreign as well as American, find it to their advantage to take from 150 to 200 passengers for Baltimore—being in ballast, land them without difficulty; and should no freight offer immediately, are convenient to the Potomac or James river, &c., much to their *advantage*, but greatly to the disadvantage of our city. I would not so frequently call your attention to this subject, did it not appear like an imposition on the lenity of our laws, and a violation of hospitality. During the past season, there has been another instance of the whole number of passengers having been paupers, and sent to this country as such, at the expense of a European parish. This fact was communicated to me by a respectable merchant, whose means of information I presume to be undisputed," &c.

1832. Number of passengers for six months of this year, 11,946; of which number 400 were citizens of the United States.

"The condition of the passengers, during the past season, has been much the same as stated in my former reports, and I hope it will not be considered importunate if I once more beg the attention of our authorities to this *growing* evil, whereby a *depraved* population is with so much facility poured in upon us; the *more able* part pass on to the interior, but the *pauper part* is left on our hands. I think, also, that provision should be made by law, requiring every master or commander of a vessel to report, if he knows or should discover such (convicts alluded to) during his passage to be on board, all and every passenger by his vessel who may have been convicted of any misdemeanor or crime prior to his receiving such passenger on board, and that such convict be retained in safe keeping at the expense of the vessel in which he or she arrives, until the departure of said vessel: and the captain placed under bond to reland said convict at such place or port where he or she was taken on board, or cause him or her (convict) to be relanded."

1833. "The condition of the immigrants (foreign), as far as they came under my observation, was much of the same character as reported in former years. They will no doubt drop a full share (indeed I can bear testimony to the fact) of paupers at our doors."

Again. "Thus the immigrant finds it to be his advantage to select Baltimore as his (or her) place of landing, being also 50 to 100 miles nigher to his place of destination. Thus, in addition to diminishing his cash expenditures, and as the amount of immigration, so is the amount of pauperism increased on our hands," &c.

1834. "You can form no idea how many paupers are dropped amongst us, from such a host of passengers, during six months of each year."

1835. The number of immigrants in six months of this year, 7,463. "For immigrants continue for the most part, as heretofore reported, of the lowest order (class) of the population of Europe."

1836. The number arrived six months of this year, 3,843. No remarks were made in my annual communication of this year as to the condition of the immigrants, amounting to 5,268.

1837. From folio 489 of revised ordinances of the city of Baltimore for 1838, I extract as follows:

"But I beg leave again to assure you that there were many characters amongst these immigrants *badly calculated* to benefit our country, either by their morals or their ser-

vices. It is true, however, that some come prepared to purchase lands in the West; but I think I am within bounds when I state, that I believe twenty-five out of the hundred are only of that class of immigrants, leaving a balance against us of 75 per cent. including the halt, lame, blind, mendicants, and persons unacquainted with any business except laboring," &c.

Henry Lamparter, jr., deposed as follows :

My age is 21 and upwards, my residence in Philadelphia, my occupation a dyer. I was born in Wurtemberg, and came to this country when I was five years old. My father, with whom I reside, keeps a public house in Philadelphia, and I have opportunities of becoming acquainted with many immigrants who come to this country. I know the instances of two persons—one named Christopher Brown, and one named Henry Knapp; they were represented by their fellow-passengers (and I believe them) to have been foreign convicts, shipped here by order of their governments. Their passage was said to have been paid by their governments, and their passports furnished. Christopher Brown arrived here about six or seven months ago, from Wurtemberg. Henry Knapp came here several years ago—four or five years; he was from Bavaria. I recently acted as interpreter for a man named Papenberg, now under arrest for murder in this county. I learned from a woman who accompanied him, that they had both been sent to this country from a house of correction in Brunswick.

Wm. Wardenburg, of Baltimore, said upon oath :

He knows that criminals and paupers have been sent to this country from Europe; knows that paupers from the alms-houses of Germany were sent here by government, in the ships Ernest and Gustave, Captain Faust, and the Albert, Captain Klockgeter. Within the last two or three years, the number of criminals and paupers sent to the city of Baltimore has greatly increased; and the witness thinks that the charge on passengers arriving in this country should be raised. Criminals, both men and women, have been sent here; has known them to be guilty of crimes since their arrival here; knows an instance in which one of these persons was sent to the jail of this city for stealing, and who stole the poker from the room in which he was confined just before he was released. This criminal had been only two or three weeks in the country when he was arrested.

Abraham Cuyk made the following statement, on oath, to verbal interrogatories propounded to him :

I am a native of the Netherlands. Have resided in the United States 28 years, and in the city of Baltimore about 15 years. For four years I acted as an agent for forwarding immigrants to the Western country, and for the last year I have been transacting the same business on my own account.

He then handed in the following statement in writing, to which he was sworn :

*Baltimore, January 30, 1845*

*To the Commissioners on the Naturalization laws for the city of Baltimore :*

GENTLEMEN : According to your demand, I have to state to your honorable body the following facts : In November, 1843, the Bremen barque Republic, Captain Tegeler, owners, Messrs. Albers & Koneken, consigned to Messrs. Albers & Co., here, arrived

here with 28 convicts from the kingdom of Wurtemberg. They were brought with dragoons to Bremerhaven, and put on board of said vessel, and one of the dragoons remained on board until they went to sea, and he returned with the pilot. And, besides, there were two murderers on said vessel, as passengers.

The publication that lately appeared in the "Sun," of the German Society of Maryland, is merely a humbug. They never appointed a committee to make inquiry, on account they know themselves it is true.

I transport a great many to the West; so last year I sent 1,800 away; therefore, I am very well acquainted with the importation. The captain, the moment after fastening the vessel, tries to get rid of them, on account he knows what cargo he has in the vessel. But it would be against the German Society of Maryland, if they should not come, because the most of them, or a good many, are owners or consignees of vessels.

And more, also, last Thursday, the 29d instant, the Bremen ship Albert, Captain Klockgeter—owners, Brothers Kahlenkamp, in Bremen, consigned to Messrs. A. Schumacher & Co., arrived here with 106 passengers, whereof 19 went to the West, and the others remained here, on account they had no money, and the German Society of Maryland has already given to the Brothers Poolman, passengers of said vessel, \$4. If you do not think they are paupers, I do not know who are. In fact, here arrives no vessel with passengers where there are no paupers on; and the German Society of Maryland are aware of that, but self-interest compels them to keep silence. They have sent last year circulars out to Germany, to recommend them to come with money; but they do not care if they are out of prison, or where they come from. It is well known any of the German kingdoms are very willing to empty prisons, and give them five or ten dollars along, to get rid of them; and certainly the Bremen merchants do not care how they load their vessels, if they only get paid for it, if they are murderers, burglars, or paupers.

I have said enough on this subject, and believe your honorable body will find them satisfactory enough.

On my part, I am, very respectfully, yours,

ABRAHAM CUYK.

Moses Catzenstein handed in a statement, in writing, (in the German language,) of which the following is a translation, to which he was sworn on the five books of Moses, (the witness being a Jew.)

By request of the commissioners, appointed by the Committee on the Judiciary of the United States Senate, in regard to the importation of paupers and criminals from foreign countries, I would respectfully state, that I embarked in Bremen, on board the Bremen ship Republic, Captain Tegeler, together with about 100 other passengers, in the course of the summer of 1843, and arrived in Baltimore about the middle of December of the same year; that among the above passengers were 28 criminals, sent out of the country by their respective governments, and accompanied by a police officer until the ship was fairly at sea, when each of these 28 persons were handed a certain sum of money by the police officer, and he then left the ship with the pilot, and the ship proceeded on her voyage—her port of destination being Baltimore, in Maryland, United States of America. Nearly all the persons alluded to are now in Baltimore.

He knows a criminal, exclusive of those mentioned in his statement, who was transported to this country, from the neighborhood from which he (Catzenstein) came, for drunkenness and robbery; and that said criminal is now in this city. The witness

resided in the county of Lowenstein, in the kingdom of Hanover. The name of the criminal alluded to is August Munzell.

Loring D. Chapman, of the city of New York, an editor, aged forty-six years, answered thus :

The person who constructed the machine for destroying the life of Louis Philippe is now a resident of this city. I know of several other instances, by information ; some of these came of 1837. I have examined the subject, and am possessed of information of frequent instances of this kind. The communications from the American Consuls at Bremen and Leipsic, to Mr. Woodbury, contain the facts in reference to the deportation of foreign convicts.

Samuel J. Robbins testified as follows :

"I believe that foreign convicts have been introduced into this country. This belief is founded upon inquiries made and papers read by me upon this subject, in the almshouse of this city and district ; in which establishment I have had means of acquiring information, being and having been for the last four years 'Secretary of the Guardians of the Poor for the city of Philadelphia, district of Southwark, and the townships of the Northern Liberties and Penn ;' but I cannot now specify the particular information or the particular documents on which my belief is founded. I recollect that one of the paupers in this almshouse acknowledged to me that he had been a convict abroad, and we sent him back to Bremen, at his own request."

To the sixth interrogatory annexed to said commission—he answering, says :

In answer to this interrogatory the deponent says : I have no other knowledge than such as may be contained in the following narration : The number of immigrants which arrived at the port of Philadelphia above two years of age, for the year ending the 1st of January, 1845, was 4,478 ; of which number about 100 have been admitted as paupers. The population of the almshouse, on the 11th of January, 1845, consisted as follows :

|  |   |   |   |     |
|--|---|---|---|-----|
| Whites, persons born in foreign countries, | - | - | - | 926 |
| Whites, persons born in the United States, | - | - | - | 713 |
| Blacks, persons born in foreign countries, | - | - | - | 12  |
| Blacks, persons born in the United States, | - | - | - | 200 |

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Total population, - - - - - 1,851

George W. Smith, of Philadelphia, testified as follows :

When I resided in Edinburgh, Scotland, in the years 1834, 1835, 1836, and 1837, I visited the poor-house of the West Kirk parish (which parish contains 71,000 inhabitants) in company with Mr. Whigham, one of the directors. He showed me a number of boys, paupers, whom they intended to send out to Canada, via New York, in order to benefit them, and to save expense to the parish. These boys did not exceed a dozen in number, to the best of my recollection. I was informed that the practice was common.

When I returned to the U. States, I saw frequent notices in the New York journals of young vagrants or paupers from the poor-house being arrested in New York, where it appeared they had remained, instead of proceeding to Canada, as intended. Of these



arrests I know nothing, but from those journals; nor do I know that those boys were the very individuals I had seen and examined in Edinburgh; but, from the description given of them in said journals, I verily believe they were. The practice is no doubt beneficial to the Scotch parish, and would be to the boys, if a power of coercion existed to compel them to proceed to Canada, (after their arrival in New York, where there is no control over them,) as the director informed me that places had been procured for them in that province.

In European newspapers, when I was abroad, I repeatedly read accounts of the conviction of criminals, and that their sentences were commuted, on condition that they should leave the country and go to the United States of America. This was a frequent subject of conversation among Americans abroad, and as a matter of course excited an indignation. I read these accounts chiefly in extracts from the newspapers of Germany, introduced into the papers of France and England.

George Henry Poulsen, aged fifty-two years, agent, residing in the city of New York, answered thus :

I know of many instances where convicts have been pardoned and sent to this country at the expense of the government by which they were pardoned. Ten or twelve such cases have come to my knowledge, and I know a case where four on board of one vessel were sent from a house of correction, in the dukedom of Brunswick. These I know of my own personal knowledge, having seen an endorsement on the passports, that the persons were convicts, transported by a guard from station to station to the frontier, where they are taken by an agent of the ship from the police officer to the vessel in which they are embarked. The instances which came to my knowledge occurred within the last three years; a large number of the Germans, arriving here soon after, became chargeable for their support to the city or to their bondsmen. Such instances we have very frequently; they call on me for aid immediately. There are also very numerous instances of foreign paupers, sometimes from the poor-houses, in other instances supported by the communes, being shipped to this port. This importation of paupers has increased very much during the last year; they are sent here to save the expense of supporting them in Europe by the public authorities, at the public expense; some of these persons, frequently owing to their having been bonded, are not received in the alms-houses; and, not being aided by their bondsmen, very often become street beggars.

Dr. Charles Wittig deposed as follows :

I am a native of Germany. I reside now in Philadelphia, and am a citizen of the United States. I have no personal knowledge of the importation of convicts into this country from Europe, by order of any European government; but I have received a letter, addressed to me, because I was a member of the German Immigrant Society, written by a gentleman who signs himself J. G. St. Lange, and who writes from Alleghany county, Indiana township, (Pennsylvania,) under date of 2d January, 1845.

The letter was then produced, the substance of which, accurately rendered, is as follows :

"I perceive in the Pittsburg Courier of the 25th December, 1844, copied from the pages of the Philadelphia Democrat, which paper had taken it from the American papers in the English language, that Frederick List, Esq., Consul at Wurtemberg, had written from Leipsic, that the German governments not only were designing to send off their paupers, but also their criminals, to the United States. That this has occurred

for several years, I can testify and prove. This did not astonish me, but I rejoice that we are determined earnestly to oppose it, and I inform you of my knowledge on the subject. On the 30th of July, 1837, I travelled from my home, the dukedom of Schwartzburg Sondershausen. From another village, the magistracy desired to place under my care a person who had several times stolen, and who was a great burden to the community, and they were anxious to get rid of him. I refused the service, but the magistracy then took a trustworthy messenger, who conducted him to Bremen, with sixty-five Prussian dollars, and transferred him immediately to a captain of a vessel, who was to pay the balance of the money, deducting charges to him, on his arrival in America. This man had already sailed when I arrived at Bremen. I sailed with the ship Johannes, Captain Sengstake. The sailors of the ship told me, that on their first voyage in that year, no less than fourteen out of the Saxe Weimar prison had been sent over in their ship, and each one, on his arrival in Baltimore, received from Captain Sengstake ten dollars."

Recently I met a German from Sondershausen, who was teaching school in Allegheny town, and who had been formerly secretary of a court. I was much surprised at meeting him. He gave me many reasons why he had left Germany. Subsequently, another person from Sondershausen told me that he had been convicted of poaching. On this account he was deposed from his office, and sentenced to two years imprisonment, during which time he begged to be permitted to come to America, and this was very cheerfully granted to him. This a letter to me last spring confirms. He is not, however, permitted to return to Germany. It is my desire that the committee, as soon as possible, would discover means by which this evil could be prevented.

Lawrence Herbert, of the city of Philadelphia, deposed as follows :

I am, myself, a native of Bavaria ; was born in the year 1811, and have resided in the United States nearly twelve years, and have been naturalized about eight. I am now, and have been for a year and a half, agent, appointed by the German Immigrant Society, to procure employment for destitute immigrants from Germany.

It is my opinion and belief, founded upon my observation, that foreign criminals have been introduced into the United States, from some of the States of Germany, by authority of governments or cities. When I have, on several occasions, visited vessels just arrived at this port, and have inquired, as is my duty, as to the character of different passengers, I have been told, on one occasion, by several immigrants, that men have been brought and shipped under the guard of armed police—this was a ship from Bremen ; this was last summer a year. On another occasion, which was the last, that of the ship Philadelphia, Captain Graves, from Bremen, which arrived about six weeks ago, a young man was pointed out to me as having come from a house of correction at Brunswick ; his name was Charles Papenberg. This is the same man who has, within a few days, been arrested in this city, and is now in custody on a very heinous charge of murder. Since his arrest, I directed a man to go to the office of the mayor, by whom he was arrested, and examine his passport, which was found to be in complete order. But I do not attach importance to this ; for if the government abroad would send him here, it would of course furnish him a passport. I have heard of many cases of convicts being here ; they have been pointed out to me.

Generally, almost always, in these cases, where I have obtained employment for persons of this character, they have turned out badly. It is the general opinion of the respectable Germans of this city, that foreign convicts are introduced into this country. They are very anxious to put a stop to such a practice, and have had several meetings

on the subject; and I am very glad to have had an opportunity of giving my testimony on the subject. It is a matter in which respectable naturalized citizens are much interested.

Samuel Ellenger, being a Jew, was sworn on the five books of Moses, and answered:—

A person in the employment of the witness stated to witness, that a family had been sent from a penitentiary in Germany, the money to pay the passage having been furnished by the village in which they resided; and has heard of many such cases, and knows some himself. Knows one case in which a deranged man was sent to this country by his relations, who were wealthy. Money was raised in Baltimore, and the deranged man sent back to his connections.

Zenon Cavelier, of New Orleans, deposed and said:—

That there is no doubt of the introduction into the United States of a large number of vagabonds and criminals, coming from foreign countries; that Meunier and Quenissit came to New Orleans after their condemnation for the crime of regicide, and after their punishment had been commuted to perpetual banishment by the French King; that he has been assured that the last-named criminal obtained a certificate of naturalization, and that he voted at the elections in the year 1844.

Moreau Forrest, Esq., United States Marshal for the district of Maryland, made the following statement in writing, to which he was sworn:—

In the year 1833, I came passenger in a vessel from the city of Kingston, Island of Jamaica, bound for New Orleans, Louisiana. On board of said vessel there were fourteen or fifteen steerage passengers. One of them was a man of sixty years of age, who had, according to his own account, been in Bonaparte's army. He had a cross on one arm, and a bullet immediately under the skin, near the wrist of the other. So superficial was the bullet, that I was desirous of cutting it out. He refused to permit me, stating that, when he was with the Spaniards, the (+) cross always gave him bread and butter upon its exhibition, and the bullet the same when he met with an old soldier or sailor. The captain, whose name was Edwards, told me that he had received from the corporate authorities of Kingston, one doubloon for each of the steerage passengers. I confidently assert, and verily believe, they were not only paupers, but of the worst dye.

Henry Caton appeared, and was sworn on the five books of Moses, (he being a Jew,) and gave the following answers to interrogatories propounded to him:—

Has known persons in Bavaria sent by government to this country for state offences; and has heard, whilst in Europe, that criminals have been sent to this country from Bavaria and Hanover, but has no knowledge of the fact himself. Has known a collection to be made to send a poor person to the United States.

Samuel Cohen was sworn on the five books of Moses, (he being a Jew,) and gave the following answers to interrogatories propounded to him:—

It is a practice in Germany for the government to give passports to criminals and paupers, directing that they shall proceed direct to America, and forbidding their

remaining in Germany. During the last season, witness saw a person, who had just arrived in this city from Germany, who had a criminal's passport, such as has been mentioned; and the said person was afterwards arrested for crime committed in this city.

Miss Amelia Blogg was sworn on the five books of Moses, (she being a Jewess.) She gave the following answers to interrogatories propounded to her:—

I arrived here from Bremen, as a passenger, on board the ship Republic, on the 23d of December, 1843. There were about twenty-five persons on board, under the care of a police officer, but whether they were criminals or paupers I do not know. I have frequently heard that persons charged with crime have been sent to this country. One of the passengers (a man) on board the ship Republic, stated that he had been put in prison for two years, charged with murder, when he was sent to this country. Another of the passengers on said ship stated that he had been imprisoned for shooting a man whilst hunting; and that he either broke out of prison and came to the country or was sent here, witness is not certain which. The witness further states, that a man, his wife, two sons, and three or four daughters, were sent from the city of Hanover to New York, about four years since, for having committed repeated robberies. The half of their expenses for coming over were paid by the government of Hanover, and the other half by a congregation in that city.

Some time after these disclosures, Geo. H. Goundie, Esq., American consul at Basle, Switzerland, addressed the following letter to the New York city authorities, in which he apprised them that the evil of sending paupers and criminals into this country was on the increase. To counteract this shameful practice, Mr. Goundie translated and caused to be published in Switzerland and Germany, the act of the New York legislature, requiring that "owners, captains and agents, give a guarantee, that such immigrants as they may land at New York, shall not fall a charge to the city or State, within two years after their arrival." The following is an extract of his letter to the New York authorities, dated Basle, March 27, 1846:—

Town authorities and cantonal governments have been in the habit of sending their paupers to the United States, merely securing them a passage to New York and not providing them with a cent to proceed inland after their arrival. Since the publication of this act, those that had been sent this spring had money sent after them, and others that are about being shipped, are now provided with sufficient means to carry them to the West. They do it, not for the good of the individuals or for the benefit of the country where they are going, but being fearful that, not provided with means to carry them into the interior, after arriving at New York, they might be refused a passage and returned to them by the American Government. It is out of the question to put a stop to it entirely; yet I think I have succeeded in relieving the city of New York from the offence of maintaining Swiss and German paupers for the future, as they will come prepared hereafter to pay their way to the Far West. Immigration this year will far exceed any previous years; and I am convinced if I had not taken this measure, your city would have again been overrun by these destitute paupers, who, when winter came, would have to be provided for in your almshouses and hospitals. With high regard, your humble servant,

G. H. GOUNDIE, U. S. Consul in Switzerland.

During the administration of President Polk, some pains seem to have been taken by Mr. Buchanan, as Secretary of State, to obtain information in regard to the immigration to this country from Europe. Hon. A. Dudley Mann was commissioned to proceed to Europe, and a part of his instructions appear to have been to collect all the information on this subject which could be deemed important to arrive at correct conclusions. In compliance with these instructions he visited the ports of western Europe, and communicated to the State Department the result of his investigations, in a letter, dated Bremen, Germany, September 13, 1847, which was afterwards communicated to Congress and ordered to be published. It is a document filled with valuable and interesting information on the subject, though, it must be confessed, if his views on other branches of the subject are not more to be relied on than those in relation to the deportation of convicts and paupers, its value may be considered materially lessened. He says, however, that "it is a common practice in Ireland for landlords to contribute pecuniary assistance to their more worthless tenants, in order to get rid of them, to enable them to immigrate to Canada," and that he "was informed at Limerick that several families had been forwarded in like manner from that port to the United States." But, nevertheless these facts were disclosed to him, he expresses the opinion that "this custom, as relates to our country, does not prevail to any considerable extent"—an opinion which developments at our main seaports during the last few years have shown to be erroneous. Notwithstanding his confident opinion to the contrary, it is undoubtedly true, as the *Pennsylvania Journal of Prison Discipline*, for October, 1854, states, that we are receiving from foreign countries constant and alarming accessions to our criminal population, and that however appropriate and adequate our penal and reformatory institutions may be for the exigencies of our own community, we are ill prepared to take care of scores and hundreds of mature, accomplished, callous villains, sent to us from the overflowing prisons of the old world. They not only constitute a large item in the aggregate of our prison population, but they exercise a prodigious influence in training, instructing and encouraging those who are yet novices in crime. An English scape-gallows will show an adroitness in the commission and concealment of crime and in eluding officers of justice, which our native rogues rarely approach. We have often seen official documents in which the transportation of rogues to our country is recognized as a legitimate policy of European governments. We subjoin a late specimen, which we have every reason to believe genuine:—

## CIRCULAR.

No. 1,898.]

*Liege (Belgium), March 14, 1854.*

**Immigrants for the United States. Transportation.**—Gentlemen: The transports for immigrants for the United States will take their departure from Antwerp. A large number of vessels are prepared already to leave at various periods of this month. A certain number of liberated prisoners from Vilrorde, and from several poor-houses (depot de mendicete), are on the point of departing. The price of the passage, all expenses included, is 180 francs, which sum should be paid in advance at the bureau of the governor of the province. I beg of you to let me know as soon as possible if your district has any passengers to be forwarded. Each individual should be sent to the jail (maison d'arret) of Antwerp, and have in his possession simply a certificate on the following model: "The Burgomaster of the district of ———, Province of Liege, Belgium, certifies that ——— (give the age, place of birth, parentage,) is unmarked." The departure will take place during the year, every fortnight.

The Commissary of the Arrondissement,

TH. FLECHET.

To the Burgomaster and Council of ———.

On the 23d of January, 1855, James Cooper, of Pennsylvania, submitted the following resolutions in the United States Senate, in presenting which he made an able speech, showing the extent of the importation of foreign criminals and paupers, and the evils resulting therefrom to our country and its institutions, but the Senate took no further action upon the subject:—

*Resolved*, That the President of the United States be, and he is hereby, respectfully requested to cause the Secretary of State and the Secretary of the Treasury, respectively, to communicate to the Senate such information as may be contained in their several Departments, relating to the transportation of convicts and paupers into the United States from foreign countries, and what agency the governments to which they belong have had in sending them hither. Also, such information as they may possess relative to the voluntary immigration into the United States of the above classes, the numbers of each that have arrived here within the last two years, whether voluntary or through the compulsory agency of their respective governments.

*Resolved*, That the Committee on the Judiciary be, and the same is hereby, instructed to inquire what legislation, if any, be necessary to prevent the governments of foreign countries from transporting into the United States convicts and paupers. Also, whether any, and what, legislation is necessary to prevent the voluntary immigration into the United States from foreign countries of either of the above classes of persons.

The following are extracts from his speech, delivered on the occasion :

I presume, Mr. President, Senators are aware that a policy, which scarcely seeks concealment, prevails amongst several of the States of continental Europe, in virtue of which, convicted and unconvicted criminals and paupers are transported to the United States, at the expense, and by the direction of their governments. This policy, which is as unjust as it is unfriendly, should be put an end to by legislation, if it cannot be accomplished by negotiation. Nations in amity with us have no right to make of the United States a penal colony; yet they are becoming so, by the toleration with which our government has regarded the practice of sending hither paupers and felons. There is scarcely an immigrant ship which arrives in our ports that is not, to some extent, freighted with this kind of cargo. This has long been an evil; but latterly it has in-

creased in magnitude, and to such an extent as to be justly regarded with alarm. But a month or two since, a single vessel landed in New York 150 paupers, and 15 or 16 convicts, wearing, as the badges of their conviction and guilt, chains upon their limbs. More recently, another vessel, freighted with a similar cargo, was wrecked on Sable Island, from whence the passengers were carried to Halifax, and from Halifax were brought to New York, by the way of Boston. By an affidavit made by one of these passengers, it appears that they are natives of Switzerland, who, being unable to support themselves at home, were sent hither at the expense of the municipality to which they belonged. The following is the affidavit :

*" City and County of New York, ss. :* We, the undersigned, being duly sworn, do depose and say out, that we and our families, whose number is correctly taken down opposite to our names, on the foot of this affidavit, are natives of Switzerland ; that they were poor in their own country and could not support themselves there any longer ; that therefore the mayor of their village has paid their passage money direct to New York, and that therefore their passage money has not been paid by these deponents ; that they embarked at Antwerp on board the ship Arcadia, which vessel was intended for New York, but wrecked at Sable Island ; that they sailed from Boston on board the passenger steamboat State of Maine, and arrived in the port of New York on board the said steamer, on the 2d day of January, 1855 ; that they are now quite destitute and without any means for support, except from commissioners of immigration ; and further they do not say.

[Here follow signatures.]

" Sworn before me this tenth day of January, 1855.

" EDWARD CASSERLY,  
" Commissioner of Deeds."

But this is not the only case of the kind. Lately (so lately that they have probably not yet arrived) the Sardinian government sent over, in a national vessel, (the Degennes, man-of-war,) 30 or 40 convicts, men of desperate fortunes and lives ; old convicts, who will here become schoolmasters of vice and learned professors of crime. The Tribune has the following paragraph in relation to the subject :

" Information has been received here, from a private source worthy of the highest confidence, to the effect that the 34 persons in question are not mere political offenders, but are convicted criminals of the most dangerous description, taken from the prisons of that country."

Thus we see, Mr. President, that it is not only thriftless paupers who are sent hither to add to the burden of our poor-laws, and stand between native misfortune and the relief provided for it by charity. Felons, convicts, deep-dyed in crime, are sent to this country by their governments, to practice their infamous industry, and inoculate our people with the vices of the Old World.

It is a common practice amongst several of the States of continental Europe to auction off to the lowest bidder their paupers, and, in some instances, the inmates of their prisons and penitentiaries. Agents of the great passenger lines of packet ships are maintained in these States for the purpose of making arrangements with the municipal authorities of the various towns, for the removal of their paupers to Antwerp, Bremen, Havre, or other seaport towns, with a view to their transportation to the United States. In England, or rather Ireland, a similar practice is pursued ; and Miss Dix, amiable, benevolent, and philanthropic as she has proved herself to be, by a life of devotion to the interests of suffering and unfortunate humanity, writes to her friends in this country from Ireland, where she is now sojourning, in terms of indignation, excited by witnessing the practices of the English government, in pouring upon our shores the polluted population of their hospitals, almshouses and prisons.

Mr. President, it is time that a stop should be put to these practices on the part of the

governments of Europe. If it cannot be effected by negotiation, surely we have the power to do it by legislation. The inherent right of every community to protect itself against the contagion of vice and crime, as well as of disease, will hardly be questioned. We have our Quarantine laws to protect us against the introduction of small-pox, cholera, and other kinds of pestilence; and these laws we enforce even to the detriment of commerce. But hitherto we have neglected to guard ourselves against a more destructive pestilence than small-pox or cholera. While our seaports and the gates of our cities and towns have been closed against the contagion of disease, they have been opened wide to admit the more fatal contagion which is flowing upon us, in the shape of pauperism and crime, from the prisons and lazaret-houses of Europe. We dread fever and the plague, and endeavor to exclude them, while "the pestilence which walketh in darkness and blighteth at mid-day," has been suffered to enter without let or hindrance. It is time we should open our eyes and look the evil in the face; we should examine our prison and alms-house statistics, and provide a remedy, cost what it may.

An insult to our flag, by a failure to salute it with the required number of guns, a refusal to indemnify a citizen for a wrong committed on his person or property, or the neglect of some point of national etiquette by a foreign government, is always followed by a demand for explanation and apology; and if explanation be denied, our national pride takes fire, and war, *ultima ratio regum*, the last argument of kings, is immediately threatened. But against emptying upon us the contents of hospitals, and houses of refuge, and prisons, we have nothing to object; we are tamely acquiescent, for fear, probably, that opposition might be construed into hostility to other classes of immigrant foreigners, whose votes may be esteemed necessary to the success of this party or that. Operated on by motives so unworthy and unmanly, American statesmen and legislators have stood by, with folded arms, and permitted the fairest heritage that Heaven has ever vouchsafed to a people, to be overrun by the inmates of foreign prisons, and the corrupted and impoverished hordes of foreign capitals. I am willing that this country should continue to be the asylum of the oppressed of every land; that out of its abundance the virtuous needy should be fed as heretofore; that in its institutions they should find protection for person and property. But, Mr. President, the time has come when the door of admission should be closed forever against all settled and legalized paupers, and all persons convicted or suspected of crime, who shall be sent hither through the agency of their respective governments. If a stop be not speedily put to this kind of immigration, the fountains of public morality will be corrupted, and the public safety compromised. Can it be otherwise, when those who are brought here are the vicious, the turbulent—conspirators against order, pickpockets, thieves, burglars, and murderers? These people are the stuff of which mobs are made; they are the class which invade the purity of the ballot-box, interfere with the freedom of the elective franchise, and disturb public order.

In the great cities of the republic, in New York, Philadelphia, Boston, Baltimore, St. Louis, and New Orleans, the evils which have grown out of the admission of these classes of immigrants have become gigantic—frightful. Not only have the irresolute and timid become alarmed at the magnitude of the mischief which threatens the public peace and endangers the public morals, but firm-minded and far-sighted statesmen have seen and appreciated the imminence of the danger, and the necessity for prompt and energetic measures to arrest it.

I am aware, Mr. President, that it is not fully within the constitutional competency of Congress or of the General Government, to provide what might be regarded as an adequate remedy for the mischiefs but too likely to grow out of these organizations. The



President of the United States has but a modified control over the volunteers and other militia of the several States. To the States, therefore, and the Governors of the States, it belongs to remedy the present existing evil. But Congress, also, has a duty to perform in reference to this subject, by providing, as far as possible, against the admission into the country of those dangerous and desperate men who come here from foreign work-houses and prisons by the compulsory agency of the governments to which they belong. If an adequate security against the future transportation of this class of men into the country cannot be provided by negotiation, it should be done by legislation. Congress has the power to make such regulations as will measurably at least close the door against the admission of this class of immigrants; and it will be recreant to one of its highest duties if it should fail to exercise it. Not only is the corruption of the public morals to be apprehended from the admission of these men, but the public peace and security are likewise endangered by it. Private property, health, life, morals, reputation, every thing dear to communities and individuals, is endangered by receiving this class of men. Is it not time, Mr. President, in view of such facts as these, that the most vigorous measures should be adopted to prevent the country from becoming a mere penal colony of the governments of Europe? Hating our institutions, and jealous of the unexampled progress of the nation in wealth, power, and greatness, yet afraid to assail us openly, does not their conduct, in this respect, almost look as if it were the result of a determination on their part to corrupt the fountains of our prosperity by sapping the morals of our people? For a far less offence than that which is continually being committed against us by the governments of continental Europe, war would be justifiable. But to this extremity we need not proceed. There are other remedial means less costly, and more effectual, if not to punish the offending governments, at least to prevent the recurrence of the offence; and to these we must have resort if we would stay the flood of pauperism and crime flowing in upon us from the Old World.

And who, Mr. President, permit me to ask, will resist the attempt, or be offended at its success? Will the honest foreigner—who comes, *bona fide*, to escape oppression at home and enjoy liberty here—object because we refuse to permit the asylum which he has sought as a home for himself and his children, to become the refuge of thieves and murderers, or the thriftless inmates of European work-houses? Our advantage and the advantage of our children will be his advantage and the advantage of his children, from generation to generation. Him, therefore, we cannot offend by pursuing the course which the national safety demands. Who, then, will complain? It is easy to answer: Those who will complain are the unfeeling, but calculating despots who send hither, by compulsion, the wretched and miserable inmates of their almshouses and hospitals, reduced to poverty and want, and afflicted by disease through the burdens and hardships occasioned by unjust wars, waged for conquest or to gratify pride. They will complain, (but not openly,) because, instead of fifty shillings paid per head for transporting paupers to this country, treble that sum will be required to maintain them at home. Another class may also object to the measures which we may take for our own security—I mean the convicts and felons; who will be left to expiate their crimes in the solitude of native prisons, instead of pursuing a career of prosperous villany here, because their rulers will not dare to turn them loose at home, though willing to do it here.

But, Mr. President, there is still another class that has a right to complain of the tardiness of the Government in arresting this evil; and they do complain, and with justice, of the composure with which the Government looks on and sees the public burdens increased, morals endangered, and the peace and order of society menaced. They complain, also, and with reason, that, in consequence of the admission of a class of immigrants, who become a charge on the community from the moment of their

landing, their labor is unduly taxed, and their earnings, intended for the support of their own families, appropriated to a purpose that would be unnecessary if the Government would perform its duty properly.

It is not only the American laborer that suffers from the causes to which I have referred. The foreigner, who has come hither, voluntarily, to take advantage of the benefits of a free Government, is equally a sufferer. His labor, as well as the labor of his native neighbor, is taxed, and the reward of his industry curtailed in the payment of poor-rates, and other levies for the maintenance of almshouses and hospitals.

No one, Mr. President, would object to contributions levied for the support of the unfortunate poor of their own community, or those afflicted by disease. But every community should support its own paupers and provide for the comforts of its own indigent sick. In Great Britain, one parish is not bound to support the poor of another; much less the poor of other countries. And such is the law in most of the States of the Union. But by the unfriendly and dishonest practices of foreign governments, the industry of our own citizens, natives and naturalized, is taxed to support foreign paupers, sent hither in violation alike of comity and justice.

About the first of January, 1855, Mayor Wood, of New York city, addressed President Pierce on the same subject, calling his attention to the evil, and invoking the action of Government to remedy it. He also addressed a message to the New York city council on the subject. The following is an extract from his message:

"It has long been the practice of many governments on the continent of Europe, to get rid of convicts and paupers by sending them to this country, and most generally to this port. The increase of crime here can be traced to this cause rather than to defect in the criminal laws, or their administration. An examination of the criminal and pauper records, shows conclusively that it is but a small proportion of these unfortunates who are natives of this country. One of the very heaviest burdens we bear is the support of these people, even when considering the direct cost; but when estimating the evil influences upon society, and the contaminating effect upon all who come within the range of their depraved minds, it becomes a matter exceedingly serious, and demanding immediate and complete eradication. I know of no subject of more importance; certainly we have the power to protect this city against the landing of so vile an addition to our population; the health, as well as the life and property of the people for whom you legislate, requires some action at your hands. I am confident the General Government will listen to any representations from you relating to it, and interpose its national authority in our behalf. On the 2nd instant, I made this grievance the subject of an official communication to the President of the United States."

He also addressed our Ministers, Charges d'Affaires, Consuls and other official representatives in Europe, invoking their aid and co-operation to prevent the evil, in reply to which he received communications from them, some of which have been published. Dr. J. G. Flugel, U. S. Consul at Leipsic, Saxony, on receiving the circular, forwarded a copy and translation to the Baron Beust, the Minister of State for Foreign Affairs, soliciting information on the subjects referred to. The Baron, in his reply, says: "The Government of Saxony have never immigrated their paupers or criminal offenders, either to North America or any other

country. Such a thing has not been thought of. Immigration from here is not of very frequent occurrence, and the immigrants do not belong to the agricultural class of the population. There is no law here against immigration. There is only a *surveillance* over the immigration agents, who have to be recommended by a commercial house of high standing in Hamburg and Bremen, and who give bonds before they are permitted to engage in that business. The Leipsic Consul adds, that in one of his epistolary communications to the State Department at Washington, he said: "Beware of the German immigrants; their intention is, to form a new (State of) Germany, which unquestionably may prove most detrimental to the American Union, especially in a political point of view." Dr. Flugel has also forwarded the following communications to Mayor Wood, which he received, in reply to his inquiry, from the National Society of German Immigration in Leipsic. It will be seen that a frank admission is made respecting the character of many of the immigrants to this country, which fully endorses the opinions expressed both by Senator Cooper and Mayor Wood, and not only justifies but demands the most stringent remedy.

*Leipsic, June 4, 1855.*

It cannot be denied that for some time the governments of some States, and also the authorities of several communities, have deemed it convenient to free themselves from their paupers by shipping them to the United States. It is also notorious that criminals, after having suffered punishment, have in the same manner been transported to the United States, with the view to free the community of them forever. In consequence of this, a system of economy was adopted productive of unavoidable evils, as they (the immigrants) were supplied merely with money sufficient for the payment of their passages, and hence, on their arrival at distant ports, being destitute of all means of support, they were compelled immediately to apply for aid, and were, therefore, regarded as very unwelcome visitors.

These practices are certainly as inhuman as they are imprudent, but the government of Saxony has not at any time had recourse to this system of economy.

We have been thoroughly acquainted with the immigration affairs of Germany for the last eight years, during which time not a single case which could implicate the Kingdom of Saxony in such action has ever come within our knowledge. On the contrary, it is a subject of regret to us that, with very few exceptions, the greater part of those who immigrate from Saxony are composed chiefly of the wealthier class of our people and our best mechanics. We, therefore, instead of gaining, are put to a loss of millions of dollars, and of the best portion of our honest and most valuable citizens.

As it appears the German immigration to the United States is becoming too powerful and troublesome, you may assure the American authorities that a speedy change in this respect is unavoidable. The decrease of immigration in general, and to North America in particular, during the last year, has become so apparent that we are warranted in asserting that the immigration of this year will not be half so numerous as that of last year. The seaports present quite a desolate appearance at the usual time of immigration, but the accounts which we receive from all the interior parts of Germany, of the great change in immigration, is still more remarkable. Hundreds of thousands who intended to immigrate have entirely abandoned the notion. Most respectfully,

The Directors of the National Society of German Immigration.

A. SHULTZE.

*Leipsic, June 9, 1855.*

I beg leave to add a few remarks to the subject of our verbal conversation.

It cannot be denied that European governments and principalities have been in the practice of freeing themselves from their paupers, and even of their more or less guilty criminals, by sending them to America and paying the cost of their voyage to the seaports and the passage from there to America, without making provision for the wants of this unhappy class of people to enable them to commence an honest trade.

Without any means of support, they become a burden to the authorities abroad, and it is to be wondered at that measures have not, ere this, been taken to put a stop to this practice.

But I am happy to state that our fatherland, Saxony, is free from such an imputation. The immigrants from here were all powerful, wealthy, and industrious people, supplied with means, yes, even wealth, such as I could only see come here with a feeling of sadness, and such as America will receive with open arms.

For myself, I have never taken part in the above-mentioned affairs, and would not give my sanction.

Accept the assurance of my highest esteem, from yours,

GEORGE SCHREIDER,

General Agent for the German Immigration.

On the 14th of February, 1855, Mayor Wood addressed the following letter to the Belgian Consul at New York, in relation to the Belgian paupers referred to by Senator Cooper in his speech in the U. S. Senate, and also a communication on the same subject to the Commissioners of Immigration:—

*Mayor's Office, New York, Feb. 14.*

SIR:—After mature deliberation and an examination of the testimony taken before Justice Bogart, together with additional information from the American Consul at Antwerp, just received, I am reluctantly forced to the conclusion that the persons now in the city prison, who came as immigrant passengers by the ship *Rochambeau*, from Antwerp, are not of a character to be permitted to go at large in this city or in this country; and while we cannot set them at liberty, we cannot longer retain them in custody. Some measures must be adopted at once to relieve the city from the expense of providing for them, and at the same time to secure us from the danger of their presence abroad in the country. Therefore, as it is beyond question, from the evidence before me, and which is open to your examination, that they were embarked at Antwerp by the order and at the expense of the Belgian local authorities, I suggest that they be returned to their own country at the cost of the Belgian government, whose agent you are in this city. I see no other resource. Humanity and justice require that they should no longer be retained in prison in this city, where they have committed no offence; and self-preservation requires that we shall prevent them being set at liberty, with the belief that their presence would be dangerous to our property. From your high character in this city, knowledge and appreciation of our institutions, I am confident you will comprehend the necessity which forces me to take this position, and promptly to respond to the request that these people be re-embarked for Antwerp without delay.

I am, with great respect, your obedient servant,

FERNANDO WOOD, *Mayor*.

P. S.—The ship *Henry Read*, which arrived at this port from Antwerp on the 10th inst., had on board six or eight of the same class of immigrants, sent by the Belgian

authorities, under the same circumstances as those now referred to, per Rochambeau; but my information of the fact, which is not official, did not reach me until the 13th inst., when too late to take action, and they are now in our midst, to add to the crime and destitution which are surrounding me on all sides.

The Commissioners of Immigration thereupon adopted the following preamble and resolution:—

Whereas, Lately, more ships bringing immigrant paupers, or other improper persons, to this city, have arrived from Antwerp than any other port, therefore,

*Resolved*, That Henry W. T. Mali, the Belgian Consul at this port, be requested to inform his government—1. Of the above fact. 2. That there are persons, known to this Commission, doing business at Antwerp, who are especially instrumental in forwarding all persons dangerous and injurious to society. 3. That the Commissioners will hereafter investigate, especially, all passengers arriving in ships coming from Antwerp.

On the 28th of March, 1855, Mr. Redfield, Collector of the Port of New York, forwarded the following to Mayor Wood, which he received from the United States Consul, at Zurich, Switzerland. It speaks for itself:

*U. S. Consulate, Zurich, Switzerland, March 3d, 1855.*

DEAR SIR—I have just been informed that the Commune of Niederwyl (Zofingen), in the Canton of Argovia, in Switzerland, have been forwarding 320 of their poorest people to the United States. They left a few days since for Havre, with the intention of sailing for New York.

Enclosed is an extract from a paper which is published in the same Canton, and which fully endorses it. It says:

“A few days since the Commune of Niederwyl, District Zofingen in the Canton of Argovia, sent 320 of their poorest people to the United States, in spite of all admonition.”

I wrote to our Consul at Havre, giving him the information, and requesting him to ascertain the name or names of the vessels in which they were to sail,—or had sailed,—and to give you the information, so that you, or the city officials, could be on the lookout, and judge for yourselves.

I am told that in a short time another large company is to follow from a neighboring district, and that all are provided with legal passports. I shall feel it my duty, whenever any thing of this kind comes to my notice, to give either the Collector, or the Mayor of the city information of it.

Very respectfully, your obedient servant,

G. H. GOUNDIE.

In addition to the multitude of facts already adduced, showing the extent of the immigration of foreign convicts and paupers, the following letter from the State Department at Washington, recently published in the New Orleans papers, shows the means resorted to by those engaged in transporting them hither to avoid detection:

*Department of State, Washington, Sept. 3d, 1855.*

SIR—I have the honor to transmit to you for your information the following extract from a despatch dated August 4, ult., received at this Department from Mr. A. D. Gall, United States Consul at Bremen:

“The circulars issued by the immigration agents in the interior of Germany caution immigrants who are deformed, crippled, or maimed, &c., against taking passage to New York, and advise them to go by way of Baltimore, New Orleans, or Quebec, where the laws prohibiting the landing of immigrants of the above classes do not apply.”

I am, sir, with high respect, your obedient servant,

W. HUNTER, Assistant Secretary.

To the Mayor of New Orleans, Louisiana.

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## CHAPTER XI.

### POWER OF CONGRESS OVER IMMIGRATION.

How far Congress has the power, under the *ninth* section of the *first* article of the United States Constitution, to regulate, restrain, or prohibit the immigration of foreigners, or whether it has any power over the subject, is not very well settled. That section provides that “the migration or importation of such persons as any of the States, now existing, shall think proper to admit, shall not be prohibited by Congress prior to the year 1808, but a tax may be imposed on such importation, not exceeding ten dollars for each person:” and it was undoubtedly understood by its framers to apply altogether to slaves. See *Elliott's Debates*, vol. v. 457 to '77. And it was so construed in *The Federalist*, the *forty-second* number of which, written by Mr. Madison, than whom no one better understood its object and intention, contains the following in relation to it:

“It were doubtless to be wished that the power of prohibiting the importation of slaves had not been postponed until the year 1808, or rather that it had not been suffered to have immediate operation. But it is not difficult to account either for this restriction on the General Government, or for the manner in which the whole clause is expressed. It ought to be considered as a great point gained in favor of humanity, that a period of twenty years may terminate forever, within these States, a traffic which has so long and so loudly upbraided the barbarism of modern policy.” \* \* \* “Attempts have been made to *pervert* this clause into an objection against the Constitution, by representing it on one side as a criminal toleration of an illicit practice, and on another as calculated to prevent voluntary and beneficial immigration from Europe to America. I mention these *misconstructions* not with a view to give them an answer—for they deserve none—but as specimens of the manner and spirit in which some have thought fit to conduct their opposition to the proposed government.”

The language used in the Constitution is, however, such as may well justify the question, whether it cannot clearly and fairly be applied to the importation of foreign convicts and paupers, and there are many who contend that it applies to all immigrants, conferring upon Congress the power to prohibit the admission of *all*, "such persons," and necessarily including the power to admit them on such conditions as it may think proper to impose, which would, of course, carry with it the right of taxing them. It was certainly deemed broad enough at the time of the adoption of the Constitution, notwithstanding the cavalier manner in which Mr. Madison dismissed the objections urged against it, to cover immigrants generally, (*See Madison State Papers*, vol. iii., p. 1429,) while some supposed it might cover convicts. *See Madison State Papers*, vol. iii., p. 1430. Luther Martin, in his celebrated letter to the Maryland Legislature, explanatory of the course pursued by him in the Convention which framed the Constitution, alludes to this provision as follows :

"The design of this clause is to prevent the General Government from prohibiting the importation of slaves; but the same reasons which caused them to strike out the word 'national,' and not admit the word 'stamps,' influenced them here to guard against the word 'slaves.' They anxiously sought to avoid the admission of expressions which might be odious in the ears of Americans, although they were willing to admit into their system those things which the expressions signified; and hence it is that the clause is so worded as really to authorize the General Government to impose a duty of ten dollars on every foreigner who comes into a State to become a citizen, whether he comes absolutely free, or qualified so as a servant; although this is contrary to the design of the framers, and the duty was only meant to extend to the importation of slaves." *See Elliott's Debates*, vol. i., p. 372.

James Wilson, who was himself a leading and influential member of the Convention which framed the Constitution, and also the prominent champion of it in the Pennsylvania Convention, which was convened to ratify or reject it, referred in a speech, in the last named body, in reply to some of the objections urged by Mr. Findley to the adoption of the Constitution, to this particular provision of it, as follows :

"The gentleman says that it is unfortunate in another point of view; it means to prohibit the introduction of white people from Europe, as this tax may deter them from coming amongst us. A little impartiality and attention will discover the care that the Convention took in selecting their language. The words are—the migration or importation of such persons, &c., shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such importation.' It is observable here that the term migration is dropped, when a tax or duty is mentioned, so that Congress have power to impose the tax only on those imported." *See Elliott's Debates*, vol. ii., p. 453.

In the North Carolina Convention, Mr. Galloway made a similar objection to that urged by Mr. Findley, in the Pennsylvania Convention. He did "not wish to see the tax on the importation extended to all per-

sons whatsoever," and gave as his reasons therefor, that the situation of the South was different from the North, saying "we want citizens, they do not." Mr. Iredell, afterwards one of the Judges of the Supreme Court of the United States, replied to Mr. Galloway's remarks, as follows :

"Mr. Chairman, the worthy gentleman I believe has misunderstood this clause, which runs in the following words: 'The migration or importation of such persons as any of the States new existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.' Now, Sir, observe that the Eastern States, who long ago have abolished slaves, did not approve of the expression slaves; they therefore used another that answered the same purpose. The committee will observe the distinction between the two words migration and importation. The first part of the clause will extend to persons who come into this country as free people, or as slaves bought. But the last part extends towards slaves only. The word migration refers to free persons; but the word importation refers to slaves, because free people cannot be said to be imported. The tax, therefore, is only to be laid on slaves who are imported, and not free persons who migrate." See *Elkott's Debates*, vol. iv., p. 101.

It will be observed that both Judges Wilson and Iredell seemed to concede the power to Congress, under this provision of the Constitution, to prohibit, after 1808, the migration of foreigners as well as the importation of slaves, and only contended that the right of taxation was confined to the importation of slaves. Mr. Harper admits that such was the intention of the framers of the Constitution, but contends that it confers the power to tax voluntary immigrants as well as slaves. According to the views of these gentlemen, the General Government has power over the subject of immigration as well as the importation of slaves: and this view seems to be sustained by various judicial opinions. Chief Justice Marshall, in delivering the opinion of the Supreme Court of the United States, in the case of *Gibbons v. Ogden*; 9 *Wheaton Rep.* 216, in which case the court decided that the power to regulate commerce, so far as it extends, is exclusively vested in Congress, and that no part of it can be exercised by a State, held the following language in relation to the ninth section of the first article of the Constitution :

"The section which restrains Congress from prohibiting the migration or importation of such persons as any of the States may think proper to admit until 1808, has always been considered as an exception from the power to regulate commerce; and certainly seems to class migration with importation. Migration applies as appropriately to voluntary, as importation does to involuntary arrivals; and, so far as an exception from a power proves its existence, this section proves that the power to regulate commerce applies equally to the regulation of vessels employed in transporting men, who pass from place to place voluntarily, and to those who pass involuntarily."

And in the same case, Justice Johnson, who concurred in the decision of the court, but delivered a separate opinion, gave his views on this point as follows :



"Commerce, in its simplest signification, means an exchange of goods; but in the advancement of society, labor, transportation, intelligence, care, and various mediums of exchange, become commodities, and enter into commerce; the subject, the vehicle, the agent, and their various operations, become the objects of commercial regulation.

\* \* That such was the understanding of the framers of the Constitution, is conspicuous from provisions contained in that instrument. The *first* clause of the *ninth* section, not only considers 'the right of controlling personal ingress or migration, as implied in the powers previously vested in Congress over commerce, but acknowledges it as a subject of revenue. And, although the leading object of this section undoubtedly was the importation of slaves, yet the words are obviously calculated to comprise persons of all descriptions, and to recognize in Congress a power to prohibit, when the States permit, although they cannot permit when the States prohibit. The treaty-making power undoubtedly goes further. So the *fifth* clause of the same section furnishes an exposition of the sense of the Convention as to the power of Congress over navigation: nor shall vessels bound to or from one State, be obliged to enter, clear, or pay duties in another."

So in the cases of *Smith v. Turner* and *Norris v. City of Boston*, in which the constitutionality of the passenger laws of New York and Massachusetts, came under consideration, and were declared void. Justice McKinley delivered the following opinion, as embodying his views in relation to the section in question, which seems to accord with those of Chief Justice Marshall and Justice Johnson:—

The first clause of the ninth section and first article of the Constitution provides, "that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808, but a tax or duty may be imposed on such importations, not exceeding \$10 for each person." On the last argument of this clause no reference was made to this clause of the Constitution; nor have I ever heard a full and satisfactory argument on the subject. Yet, on a full examination of this clause, connected with other provisions of the Constitution, it has had a controlling influence on my mind in the determination of the case before us. Some of my brethren have insisted that the clause here quoted applies exclusively to the importation of slaves. If the phrase "the migration or importation of such persons" was intended by the Convention to mean slaves only, why, in the assertion of the taxing power, did they, in the same clause, separate migration from importation, and use the following language?—"But, a tax or duty may be imposed on such persons, not exceeding \$10 for each person." All will admit, that if the word *migration* were excluded from the clause, it would apply to slaves only. An unsuccessful attempt was made in the Convention to amend this clause, by striking out the word *migration*, and thereby to make it apply to slaves exclusively. In the face of this fact, the debates in the Convention, certain numbers of the *Federalist*, together with Mr. Madison's report to the Legislature of Virginia in 1799—eleven years after the adoption of the Constitution—are relied on to prove that the words *migration* and *importation* are synonymous, within the true intent and meaning of this clause. The acknowledged accuracy of language and clearness of diction in the Constitution would seem to forbid the imputation of so gross an error to the distinguished authors of that instrument. I have been unable to find any thing in the debates of the Convention, in the *Federalist*, or the report of Mr. Madison, incon-

sistent with the construction here given. Were they, however, directly opposed to it, they could not, by any known rule of construction, control or modify the plain and unambiguous language of the clause in question. The conclusion, to my mind, is therefore irresistible, that there are two separate and distinct classes of persons intended to be provided for by this clause. Although they are both subjects of commerce, the latter class only is the subject of trade and importation. The slaves are not immigrants, and had no exercise of volition in their transportation from Africa to the United States. The owner was bound to enter them at the custom house, as any other article of commerce or importation, and to pay the duty imposed by law; whilst the persons of the first class, although subjects of commerce, had the free exercise of volition, and could remove at pleasure from one place to another; and when they determined to migrate or remove from any European government to the United States, they voluntarily dissolved the bond of allegiance to their sovereign, with the intention to contract a temporary or permanent allegiance to the government of the United States, and if transported in an American ship, that allegiance commenced the moment they got on board. They were subject to, protected by, the laws of the United States to the end of their voyage. Having thus shown that there are two separate and distinct classes included in, and provided by, the clause of the Constitution referred to, the question arises, how far the persons of the first class are protected by the Constitution and laws of the United States from the operation of the statute of New York now under consideration? The power was conferred on Congress to prohibit migration or importation of such persons into all the new States, from and after the time of their admission into the Union, because the exemption from the prohibition of Congress was confined exclusively to the States then existing, and left the power to operate upon all the new States admitted into the Union prior to 1808. Four new States having been thus admitted within that time, it follows, beyond controversy, the power of Congress over the whole subject of migration and importation was complete throughout the United States after 1808.

The power to prohibit the admission of "all such persons," includes, necessarily, the power to admit them on such conditions as Congress may think proper to impose; and; therefore, as a condition, Congress has the unlimited power of taxing them. If this reasoning be correct, the whole power over the subject belongs exclusively to Congress, and connects itself indissolubly with the power to regulate commerce with foreign nations. How far, then, are these immigrants protected, upon their arrival in the United States, against the power of State statutes? The ship, the cargo, the master, the crew, and the passengers are all under the protection of the laws of the United States to the final termination of the voyage; and the passengers have a right to be landed and go on shore under the protection of and subject to these laws only, except so far as they may be subject to the Quarantine laws of the place where they are landed; which laws are not drawn in question in this controversy. The great question here is, where does the power of the United States over this subject end, and where does the State power begin? This is, perhaps, one of the most perplexing questions ever submitted to the consideration of this court.

A similar question arose in the case of *Brown v. the State of Maryland*, 12 Wheat., 419, in which the court carried out the power of Congress to regulate commerce with foreign nations, upon the subject then under consideration, to the line which separates it from the reserved powers of the States, and plainly established the power of the States over the same subject-matter beyond that line.

The clause of the Constitution already referred to in this case, taken in connection with the provision which confers on Congress the power to pass all laws necessary and

proper for carrying into effect the enumerated and all other powers granted by the Constitution, seem necessarily to include the whole power over this subject; and the Constitution and laws of the United States being the supreme law of the land, State power cannot be extended over the same subject. It therefore follows that passengers can never be subject to State laws until they become a portion of the population of the State, temporarily or permanently; and this view of the subject seems to be fully sustained by the case above referred to. Were it even admitted that the State of New York had power to pass the statute under consideration, in the absence of legislation by Congress on this subject, it would avail nothing in this case, because the whole ground had been occupied by Congress before that act was passed, as has been fully shown by the preceding opinion of my brother Catron. The laws referred to in that opinion show conclusively that the passengers, their money, their clothing, their baggage, their tools, their implements, etc., are permitted to land in the United States without tax, duty, or impost. I therefore concur in the opinion, that the judgment of the court below should be reversed.

Justice Catron concurred in the opinion delivered by Justice McKinley, and adopted it as forming part of his own, so far as Justice McKinley's individual views are expressed, when taken in connection with the opinion delivered by himself; and Justice Wayne also concurred with Justice McKinley in his interpretation of the *ninth* section of the *first* article of the Constitution, and said that it "includes within it the migration of other persons, as well as the importation of slaves, and in terms recognizes that other persons as well as slaves *may* be the subjects of importation and commerce," having in view, no doubt, such as convicts and paupers, who do not come here of their own volition, but are transported hither by, and at the expense of, European governments.

Chief Justice Taney could not, however, assent to the opinion expressed by Justice McKinley, and Justices Daniel, Nelson and Woodbury concurred with him in dissenting. *See opinions of the Judges of the Supreme Court of the U. States, in the cases of Smith v. Turner and Norris v. City of Boston, Dec. Term, 1848, published in pamphlet form by order of Congress.* The Chief Justice says:—

If the word can be applied to voluntary immigrants, the construction put upon it by those who opposed the Constitution is certainly the just one; for it is difficult to imagine why a power should be so explicitly and carefully conferred on Congress to prohibit immigration, unless the majority of the States desired to put an end to it, and to prevent any particular State from contravening this policy. But it is admitted on all hands, that it was then the policy of all States to encourage immigration, as it was also the policy of the far greater number of them to discourage the African slave trade. And with these opposite views upon these two subjects, the framers of the Constitution would never have bound them both together in the same clause, nor spoken of them as kindred subjects which ought to be treated alike, and which it would be the probable policy of Congress to prohibit at the same time. No State could fear any evil from the discouragement of immigration by other States, because it would have the power of opening its own doors to the immigrant, and of securing to itself the advantages it desired. The refusal of other States could in no degree affect its interests or counteract its policy. It is only

upon the ground that they considered it an evil, and desired to prevent it, that this word can be construed to mean freedom, and to class them in the same provision and in the same words, with the importation of slaves. The imitation of the prohibition also shows that it does not apply to voluntary immigrants. Congress could not prohibit the migration and importation of such persons during the time specified, "*in such States as might think proper to admit them.*" This provision clearly implies that there was a well known difference of policy among the States upon the subject to which this article relates. Now, in regard to voluntary immigrants, all the States, without exception, not only admitted them, but encouraged them to come; and the words, "*in such States as may think proper to admit them,*" would have been useless, and out of place, if applied to voluntary immigrants. But in relation to slaves it was known to be otherwise; for while the African slave trade was still permitted in some of the more southern States, it had been prohibited many years before, not only in what are now called free States, but also in States where slavery still exists. In Maryland, for example, it was prohibited as early as 1783. The qualification of the power of prohibition, therefore, by the words above mentioned, was entirely appropriate to the importation of slaves, but inappropriate and useless in relation to freedom. They could not and would not have inserted it, if the clause in question embraced them.

I admit that the word *migration*, in this clause of the Constitution, has occasioned some difficulty in its construction; yet it was, in my judgment, inserted to prevent doubts or cavils upon its meaning, for as the words *imports* and *importation* in the English laws had always been applied to *property and things* as contradistinguished from *persons*, it seems to have been apprehended that disputes might arise whether these words covered the introduction of men into the country, although these men were the property of the persons who brought them in. The framers of the Constitution were unwilling to use the word *slaves* in the instrument, and so described them as *persons*; and so describing them, it employed a word that would describe them as *persons*, and which had uniformly been used when persons were spoken of, and also the word which was always applied to matters of property. The whole context of the sentence, and its provisions and limitations, and the construction given to it by those who assisted in framing the clause in question, show that it was intended to embrace those persons only who were brought in as property.

Justice Woodbury, in noticing this section, in delivering his opinion in the same cases, said :

"This they consider as a grant of power to Congress to prohibit the immigration from abroad of all persons, bond or free, after 1808, and to tax their importation at once and forever, not exceeding ten dollars per head." (See 9 Wheaton, 230; Justice Johnson : 15 Peters, 514; Justice Johnson—brig Wilson.)

But it deserves special notice, that this ninth section is one entirely of limitation of power rather than a grant of it; and the power of prohibition being nowhere else in the Constitution expressly granted to Congress, the section seems introduced rather to prevent it from being implied, except as to slaves, after 1808, than to confer it in all cases. (1 Brockenbrough, 434—brig Wilson.) If to be implied elsewhere, it is from the grant to regulate commerce, and by the idea that slaves are subjects of commerce, as they often are. Hence, it can go no further than imply it as to them, and not as to free passengers. Or if to "regulate commerce" extends also to the regulation of mere navigation, and hence to the business of carrying passengers, in which it may be employed,

it is confined to a forfeiture of the vessel, and does not legitimately involve a prohibition of persons, except when articles of commerce, like slaves. (1 *Brookenbrough*, 432.) Or finally, however, (for the power may extend under either view,) it is still a power concurrent in the States, like most taxation, and much local legislation as to matters connected somewhat with commerce, and is well exercised by them when Congress does not, as here, legislate upon the matter either of prohibition or of taxation of passengers. It is hence, that if this 9th section was a grant to prevent the migration or importation of other persons than slaves, it is not an exclusive one, any more than that to regulate commerce, to which it refers; nor has it even been exercised so as to conflict with State laws or with the statute of Massachusetts, now under consideration. This clause itself recognizes an exclusive power of prohibition in the States, until 1808. And a concurrent and subordinate power on this by the States, after that, is nowhere expressly forbidden in the Constitution, nor is it denied by any reason or necessity for such exclusiveness. The States can often use it more wisely than Congress, in respect to their own interests and policy. They cannot protect their police, or health, or public morals, without the exercise of such a power at all times and under certain exigencies—as forbidding the admission of slaves and certain other persons within their borders. One State, also, may require its exercise from its exposures and dangers, when another may not. So it may be said as to the power to tax *importation*: if limited to slaves, the States could continue to do the same when they pleased, if men are not deemed “imports.” But to see for a moment how dangerous it would be to consider as vested a prohibitory power over all aliens exclusively in Congress, look to some of the consequences. The States must be mute and powerless.

If Congress, without a co-ordinate or concurrent power in the States, can prohibit other persons as well as slaves from coming into States, they can of course allow it without; and hence can permit and demand the admission of slaves as well as any kind of free persons, convicts, or paupers, into any State, and enforce the demand by all the overwhelming power of the Union, however obnoxious to the habits and wishes of the people of a particular State. Looking at an interference like this, it has therefore been said that under this section Congress cannot admit any persons whom a State pleases to exclude. (9 *Wheat.*, 230—*Justice Johnson*.) This rather strengthens the propriety of the independent action of the State here excluding conditionally, than the idea that it is under the control of Congress.

Besides this, the ten dollars per head allowed here specially to be collected by Congress on imported slaves, is not an exclusive power to tax, and would not have been necessary or inserted if Congress could clearly already impose such a tax on them as “imports,” and by a “duty” on imports. It would be not a little extraordinary to imply by construction a power in Congress to prohibit the coming into the States of others than slaves or of mere aliens, on the principle of the alien part of “the alien and sedition laws,” though it never has been exercised as to others permanently; but the States recommended to exercise it, and seventeen of them are now actually doing it. And equally extraordinary to imply, at this late day, not only that Congress possesses the power, but that, though not exercising it, the States have occupied it concurrently, or even in subordination to Congress. But beyond this the States have occupied it concurrently as to slaves no less than exclusively, in respect to certain free persons, since as well as before 1808; and this, as to their admission from neighboring States no less than from abroad. (See cases before cited, and *Butler v. Haffer*, 1 *Wash. c. c.*, 500.) The word “migration” was probably added to “importation,” to cover slaves when regarded as persons rather than property, as they are for some purposes. Or if to cover

others, such as convicts and redemptioners, it was those only who came against their will or in a quasi-servitude.

In the Constitution, in other parts as in this, the word "persons" is used not to embrace others as well as slaves, but slaves alone. Thus, in the 2d section of the first article, "three-fifths of all other persons," manifestly means slaves; and in the 3d section of the fourth article, "no person held to service or labor in one State," &c., refers to slaves. The word "slave" was avoided, from a sensitive feeling; but clearly no others were intended in the 9th section. Congress so considered it, also, when it took up the subject of this section in 1807, just before the limitation expired, or it would then probably have acted as to others, and regulated the migration and importation of others as well as of slaves. By forbidding merely "*to import or bring into the United States, or Territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of color, with intent to hold, sell, or dispose of such negro, mulatto, or person of color, as a slave, or to be held to service or labor,*" it is manifest that Congress then considered this clause in the Constitution as referring to slaves alone, and then as a matter of commerce; and it strengthens this idea, that Congress has never since attempted to extend this clause to any other persons, while the States have been in the constant habit of prohibiting the introduction of paupers, convicts, free blacks, and persons sick with contagious diseases, no less than slaves; and this from neighboring States, as well as from abroad.

There was no occasion for that express grant, or rather recognition, of the power to forbid the entry of slaves by the General Government, if Congress could, by other clauses of the Constitution, for what seemed to it good cause, forbid an entry of everybody as of aliens generally; and if Congress could not do this generally, it is a decisive argument that the State might do it, as the power must exist somewhere in every independent country.

Justice Daniel expressed himself as follows:

This 9th section of the fourth article of the Constitution has, on a former occasion, been invoked in support of the power claimed for the Federal Government. The supporters of the alien law, passed in 1798, endeavored to draw from this very section a justification of that extraordinary enactment; and as their argument deduced from it is, perhaps, as cogent as any likely to be propounded at this day, it may be properly adverted to as a fair sample of the pretension advanced in this case, and of the foundation on which it seeks to plant itself. The argument alluded to was by a committee of the House of Representatives, and in these words: "That as the Constitution *has given to the States* no power to remove aliens during that period of the limitation under consideration, in the mean time, on the construction assumed, there would be no authority in the country to send away dangerous aliens; which cannot be admitted." Let the comment of a truly great man on these startling heresies expose their true character. "It is not," says Mr. Madison, "the inconclusiveness of the general reasoning on this passage which chiefly calls the attention to it. It is the principle assumed by it; that the powers held by the States are given to them by the Constitution of the United States; and the inference from this principle, that the powers supposed to be necessary, which are not so given to the State governments, must reside in the Government of the United States. The respect which is felt for every portion of the consummated authorities forbids some reflections which this singular paragraph might excite; and they are the more readily suppressed, as it may be presumed, with justice, perhaps, as well as candor, that inadvertence may have had its share in the error. It would be unjustifiable delicacy,

nevertheless, to pass by so portentous a claim without a monitory notice of the fatal tendency with which it would be pregnant." (*Madison's Report*.) The assertion of a general necessity for permission to the States from the General Government, either to expel from their confines those who are mischievous or dangerous, or to admit to hospitality and settlement whomsoever they may deem it advantageous to receive, carries with it either a denial to the former, as perfect original sovereignties, of the right of self-preservation, or presumes a concession to the latter, the creature of the States, wholly incompatible with its exercise.

This authority over alien friends belongs not, then, to the General Government, by any express delegation of power, nor by necessary or improper implication from express grants. The claim to it is essentially a revival of what public sentiment so generally and decisively condemned as a usurpation in the alien law of 1798; and however this revival may at this time be freed from former imputations of foreign antipathies or partialities, it must, nevertheless, be inseparable from—nay, it must be the inevitable cause of far greater evils—jealousy, ill-feeling, and dangerous conflict, between the members of this confederacy and their common agent.

The weight of authority seems to be, from a review of the opinions given, that the section of the Constitution in question is an exception to the power of Congress to regulate commerce, so that if it had not been introduced, the power to prohibit the importation would have resulted from the general grant to regulate commerce. 15 *Peters' Rep.*, 514. For it is a rule of interpretation acknowledged by all, that the exception of a particular thing from general words proves that, in the opinion of the law-giver, the thing excepted would be within the general clause, had the exception not been made; and there seems to be no reason why this general rule should not be as applicable to the Constitution as to other instruments. 12 *Wheaton Rep.*, 440. The section, according to this construction, not only considers the right of controlling personal ingress or migration, as implied in the powers previously vested in Congress over commerce, but acknowledges it as a subject of revenue. 12 *Wheaton*, 450. Congress having the exclusive power to regulate commerce, and the latter, under the interpretation of the ninth section, including an intercourse of persons as well as the importation of merchandize, the conclusion seems to be irresistible that Congress has the sole power over migration of foreigners as well as importation of goods, and that the States cannot tax immigrants for the purpose of paying expenses incident to the execution of their police laws. But the States have reserved to them the internal police power, which, in common parlance, often relates to something with public morals, and in that limited view would embrace the subject of pauperism, (16 *Peters*, 625,) whilst in law the term is much broader, and includes all legislation for the internal policy of a State. 4 *Black. Comm.*, ch. 18

## CHAPTER XII.

## INTERNAL POLICE POWER OF THE STATES.

THOUGH a great difference of opinion is manifested in the written opinions of the Judges of the Supreme Court, as to the constitutionality of the passenger laws of New York and Massachusetts, which imposed a tax, and which were under consideration in the cases of *Smith v. Turner* and *Norris v. Boston*, no such difference existed among them, as to the power relating to *internal police* being reserved to the States, to be exercised by them even to the entire exclusion of certain classes of persons. This principle was fully established in the case of *The City of New York v. Milne*, 11 *Peters' Rep.*, 102, which came before the United States Supreme Court, on a certificate of division in opinion of the Judges of the Circuit Court of the United States for the Southern District of New York. The facts of the case were these: By one of the provisions of an act, passed by the New York Legislature, in 1824, the master of every vessel arriving in New York was required, under certain penalties, within twenty-four hours after his arrival, to make report of the names, ages, and last legal settlement of every person on board of his vessel, &c. New York city brought an action of debt under this law against the master of the ship *Emily*, for the recovery of certain penalties imposed by the act. The defendant demurred and alleged that the act assumed to regulate trade and commerce, and was therefore unconstitutional. The Supreme Court decided otherwise, however, and pronounced the act to be constitutional. In delivering the opinion of the court, Justice Barbour said:

The power of New York to pass this law having undeniably existed at the formation of the Constitution, the simple inquiry is, whether by that instrument it was taken from the States, and granted to Congress; for if it were not, it yet remains with them.

Now, we hold that both the end and the means here used, are within the competency of the States, since a portion of their powers were surrendered to the Federal Government. Let us see what powers are left with the States. The Federalist, in the 45th number, speaking of this subject, says: the powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people; and the internal order, improvement, and prosperity of the State. And this court, in the case of *Gibbons v. Ogden*, 9 *Wheat.*, 203, which will hereafter be more particularly noticed, in speaking of the inspection laws of the States, say: they form a portion of that immense mass of legislation which embraces every thing within the territory of a State, not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection



laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., are component parts of this mass.

Now, if the act in question be tried by reference to the delineation of power laid down in the preceding quotations, it seems to us that we are necessarily brought to the conclusion, that it falls within its limits. There is no aspect in which it can be viewed, in which it transcends them. If we look at the place of its operation, we find it to be within the territory, and, therefore, within the jurisdiction of New York. If we look at the person on whom it operates, he is found within the same territory and jurisdiction. If we look at the persons for whose benefit it was passed, they are the people of New York, for whose protection and welfare the Legislature of that State are authorized and in duty, bound to provide.

If we turn our attention to the purpose to be attained, it is to secure that very protection, and to provide for that very welfare. If we examine the means by which these ends are proposed to be accomplished, they bear a just, natural, and appropriate relation to those ends.

. . . . .

We choose rather to plant ourselves on what we consider impregnable positions. They are these : That a State has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States; that, by virtue of this, it is not only the right, but the bounden and solemn duty of a State, to advance the safety, happiness and prosperity of its people, and to provide for its general welfare, by any and every act of legislation which it may deem to be conducive to these ends; where the power over the particular subject, or the manner of its exercise is not surrendered or restrained, in the manner just stated; that all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called *internal police*, are not thus surrendered or restrained; and that, consequently, in relation to these the authority of a State is complete, unqualified, and exclusive.

We are aware, that it is at all times difficult to define any subject with proper precision and accuracy; if this be so in general, it is emphatically so in relation to a subject so diversified and multifarious as the one which we are now considering.

If we were to attempt it, we should say, that every law came within this description which concerned the welfare of the whole people of a State, or any individual within it; whether it related to their rights or their duties; whether it respected them as men, or as citizens of the State, or of any individual within it; and whose operation was within the territorial limits of the State, and upon the persons and things within its jurisdiction.

. . . . .

Now, in relation to the section in the act immediately before us, that is obviously passed with a view to prevent her citizens from being oppressed by the support of multitudes of poor persons, who come from foreign countries without possessing the means of supporting themselves. There can be no mode in which the power to regulate internal police could be more appropriately exercised. New York, from her particular situation, is, perhaps, more than any other city in the Union, exposed to the evil of thousands of foreign immigrants arriving there, and the consequent danger of her citizens being subjected to a heavy charge in the maintenance of those who are poor. It is the duty of the State to protect its citizens from this evil; they have endeavored to do so, by passing, amongst other things, the section of the law in question. We should, upon principle, say that it had a right to do so.

We think it as competent and as necessary, for a State to provide precautionary measures against the moral pestilence of paupers, vagabonds, and possibly convicts, as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported, or from a ship, the crew of which may be laboring under an infectious disease.

In the case of *Groves et al. v. Slaughter*, 15 *Peters' Rep.*, 509, Chief Justice Taney, in noticing the question of constitutional law that had been brought into discussion, that is to say, whether the grant of power to the General Government, to regulate commerce, does not carry with it an implied prohibition to the States to make any regulations upon the subject, even although they should be altogether consistent with those made by Congress, raised the query, however, whether such State legislation would not be valid until Congress should otherwise direct. He said :

"It is admitted on all hands, that if a State makes any regulations of commerce inconsistent with those made by Congress, or in any degree interfering with them, the regulations of the State must yield to those of the General Government. No one, I believe, doubts the controlling power of Congress in this respect; nor their right to abrogate and annul any and every regulation of commerce made by a State. But the question upon which different opinions have been entertained, is this: Would a regulation of commerce, by a State, be valid until Congress should otherwise direct; provided such regulation was consistent with the regulations of Congress, and did not in any manner conflict with them? No case has yet arisen which made it necessary, in the judgment of the court, to decide the question. It was treated as an open one, in the case of *The City of New York v. Milne*, 11 *Peters*, 102, decided at January term, 1837, as will appear by the opinions then delivered; and since that time the point has never, in any form, come before the court. Nor am I aware that there is any reason for supposing that such a case is likely to arise. For the States have very little temptation to make a regulation of commerce, when they know it may be immediately annulled by an act of Congress, even if it does not at the time it is made by the State conflict with any law of the General Government.

But Justice Baldwin, in the same case, thus emphatically recognized the exclusive power of Congress over commerce, yet at the same time conceded the internal police power to belong exclusively to the States :

"That the power of Congress 'to regulate commerce among the several States,' is exclusive of any interference by the States, has been, in my opinion, conclusively settled by the solemn opinions of this court, in *Gibbons v. Ogden*, 9 *Wheat.*, 186-222, and in *Brown v. Maryland*, 12 *Wheat.*, 438-446. If these decisions are not taken as the established construction of this clause of the Constitution, I know of none which are not yet open to doubt; nor can there be any adjudications of this court, which must be considered as authoritative upon any question, if these are not to be so on this. Cases may, indeed, arise, wherein there may be found the difficulty in discriminating between regulations of 'commerce among the several States,' and the regulations of 'the internal police of a State,' but the subject-matter of such regulations, of either description, will lead to the true line which separates them, when they are examined with a disposition to avoid a collision between the powers granted to the Federal Government, by the people of the seve-

ral States, and those which they have reserved exclusively to themselves. 'Commerce among the States,' as defined by this court, is 'trade,' 'traffic,' 'intercourse,' and dealing in articles of commerce between States, by its citizens or others, and carried on in more than one State. Police relates only to the internal concerns of one State; and commerce, within it, is purely a matter of internal regulation, when confined to those articles which have become so distributed as to form items in the common mass of property. It follows, that any regulation, which affects the commercial intercourse between any two or more States, referring solely thereto, is within the powers granted exclusively to Congress; and that those regulations which affect only the commerce carried on within one State, or which refer only to subjects of internal police, are within the powers reserved. The opinion of this court, in *Milne v. New York*, 11 *Peters*, 130, &c., draws a true line between the two classes of regulations."

So in the case of *Prigg v. The Commonwealth of Pennsylvania*, 16 *Peters' Rep.*, 625, Justice Story, in delivering the opinion of the Court, held the following language in relation to the police power belonging to the States:

"To guard, however, against any possible misconception of our views, it is proper to state, that we are by no means to be understood in any manner whatsoever to doubt or to interfere with the police power belonging to the States in virtue of their general sovereignty; that police power extends over all subjects within the territorial limits of the States, and has never been conceded to the United States. It is wholly distinguishable from the right and duty secured by the provision now under consideration; which is exclusively derived from and secured by the Constitution of the United States, and owes the whole efficacy thereto. We entertain no doubt whatsoever, that the States, in virtue of their general police power, possess full jurisdiction to arrest and restrain runaway slaves, and remove them from their borders, and otherwise to secure themselves against their depredations and evil example, as they certainly may do in cases of idlers, vagabonds, and paupers. The rights of the owners of fugitive slaves are in no just sense interfered with, or regulated by such a course; and, in many cases, the operations of this police power, although designed generally for other purposes, for the protection, safety, and peace of the States, may essentially promote and aid the interests of the owners. But such regulations can never be permitted to interfere with or to obstruct the just rights of the owner to reclaim his slave, derived from the Constitution of the United States, or with the remedies prescribed by Congress to aid and enforce the same."

In the License cases, (5 *Howard*, 578,) Chief Justice Taney still insists that there is no absolute prohibition to the exercise of the power over commerce by the States. He says:

"The question brought up for decision is, whether a State is prohibited by the Constitution of the United States from making any regulations of foreign commerce, or of commerce with another State, although such regulation is confined to its own territory, and made for its own convenience or interest, and does not come in conflict with any law of Congress. In other words, whether the grant of power to Congress is of itself a prohibition to the States, and renders all State laws upon the subject null and void.

"It is well known that upon this subject a difference of opinion has existed, and still exists, among the members of this court. But with every respect for the opinion of my

brethren with whom I do not agree, it appears to me to be very clear, that the mere grant of power to the General Government cannot, upon any just principle of construction, be construed to be an absolute prohibition to the exercise of any power over the same subject by the States. The controlling and supreme power over commerce with foreign nations, and the several States, is undoubtedly conferred upon Congress. Yet, in my judgment, the State may, nevertheless, for the safety or convenience of trade, or for the protection of the health of its citizens, make regulations of commerce for its own ports and harbors, and for its own territory; and such regulations are valid, unless they come in conflict with a law of Congress. Such evidently, I think, was the construction which the Constitution universally received at the time of its adoption, as appears from the legislation of Congress and of the several States; and a careful examination of the decisions of this court will show, that, so far from sanctioning the opposite doctrine, they recognize and maintain the power of the States.

I have said that the legislation of Congress and the States has conformed to this construction from the foundation of the government. This is sufficiently exemplified in the laws in relation to pilots and pilotage, and the health and Quarantine laws.

"In relation to the first, they are admitted on all hands to belong to foreign commerce, and to be subject to the regulations of Congress, under the grant of power of which we are speaking. Yet they have been continually regulated by the maritime States, as fully and entirely since the adoption of the Constitution as they were before; and there is but one law of Congress making any specific regulation upon the subject, and that passed as late as 1837, and intended, as it is understood, to alter only a single provision of the New York law, leaving the residue of its provisions entirely untouched. It is true, that the act of 1789 provides that pilots shall continue to be regulated by the laws of the respective States then in force, or which may thereafter be passed, until Congress shall make provision on the subject. And undoubtedly Congress had the power, by assenting to the State laws then in force, to make them its own, and thus make the previous regulations of the States the regulations of the General Government. But it is equally clear, that, as to all future laws by the States, if the Constitution deprived them of the power of making any regulations on the subject, an act of Congress could not restore it; for it will hardly be contended that an act of Congress can alter the Constitution, and confer upon a State a power which the Constitution declares it shall not possess. And if the grant of power to the United States to make regulations of commerce is a prohibition to the States to make any regulation upon the subject, Congress could no more restore to the States the power of which it was thus deprived, than it could authorize them to coin money, or make paper money a tender in the payment of debts, or to do any other act forbidden to them by the Constitution. Every pilot law in the commercial States has, it is believed, been either modified or passed since the act of 1789 adopted those then in force; and the provisions since made are all void, if the restriction on the power of the States now contended for should be maintained; and the regulations made, the duties imposed, the securities required, and penalties inflicted by these various State laws, are mere nullities, and could not be enforced in a court of justice. It is hardly necessary to speak of the mischiefs which such a construction would produce to those who are engaged in shipping, navigation, and commerce. Up to this time their validity has never been questioned. On the contrary, they have been repeatedly recognized and upheld by the decisions of this court; and it will be difficult to show how this can be done, except upon the construction of the Constitution which I am now maintaining. So, also, in regard to health and Quarantine laws. They have

been continually passed by the States ever since the adoption of the Constitution, and the power to pass them recognized by acts of Congress, and the revenue officers of the General Government directed to assist in their execution. Yet all of these health and Quarantine laws are necessarily, in some degree, regulations of foreign commerce in the ports and harbors of the State. They subject the ship, and cargo, and crew to the inspection of a health officer appointed by the State; they prevent the crew and cargo from landing until the inspection is made, and destroy the cargo, if deemed dangerous to health. And during all this time the vessel is detained at the place selected for the Quarantine ground by the State authority. The expenses of the precautionary measures are also usually, and I believe universally, charged upon the master, the owner or the ship; and the amount regulated by the State law, and not by Congress. Now, so far as these laws interfere with shipping, navigation, or foreign commerce, or impose burdens upon either of them, they are unquestionably regulations of commerce. Yet, as I have already said, the power has been continually exercised by the States, has been continually recognized by Congress ever since the adoption of the Constitution, and constantly affirmed and supported by this court, whenever the subject came before it."

Justice Woodbury delivered a written opinion in the same case, from which the following extracts are made :

Again : it has been strenuously insisted on in these cases, and perhaps it is the leading position, that these license laws are virtually regulations of foreign commerce ; and hence, when passed by a State, are exercising a power exclusively vested in the General Government, and therefore void. This is maintained, whether they actually conflict with any particular act of Congress or not. But, dissenting from any such definition of that power, as thus exclusive and thus abrogating every measure of a State which by construction may be deemed a regulation of foreign commerce, though not at all conflicting with any existing act of Congress, or with any thing ever likely to be done by Congress, I shall not, on this occasion, go at length into the reasons for my dissent to the exclusive character of this power, because these license laws are not, in my opinion, regulations of foreign commerce, and in a recent inquiry on the circuit, I have gone very fully into the question. *The United States v. New Bedford Bridge, in Massachusetts District.*

My reasons are, in brief,—

1. The grant is in the same article of the Constitution, and in like language, with others which this court has pronounced not to be exclusive ; e. g., the regulation of weights and measures, of bankruptcy, and disciplining the militia.

2. There is nothing in its nature, in several respects, to render it more exclusive than the other grants, but, on the contrary, much in its nature to permit and require the concurrent and auxiliary action of the States. But I admit that, so far as regards the uniformity of a regulation reaching to all the States, it must in these cases, of course, be exclusive ; no State being able to prescribe rules for others as to bankruptcy, or weights and measures, or the militia, or for foreign commerce. A want of attention to this discrimination has caused most of the difficulty. But there is much in connection with foreign commerce which is local within each State, convenient for its regulation and useful to the public, to be acted on by each till the power is abused, or some course is taken by Congress conflicting with it. Such are the deposit of ballast in harbors, the extension of wharves into tide water, the supervision of the anchorage of ships, the removal of obstructions, the allowance of bridges with suitable draws, and various other matters

that need not be enumerated, beside the exercise of numerous police and health powers, which are also by many claimed upon different grounds. This local, territorial, and detailed legislation should vary in different States, and is better understood by each than by the General Government; and hence, as the colonies under an empire usually attend to all such local legislation within their limits, leaving only general outlines and rules to the parent country at home, as towns, cities, and corporations do it through by-laws for themselves, after the State Legislature lays down general principles, and as the war and navy departments and courts of justice make detailed rules under general laws, so here the States, not conflicting with any uniform and general regulations by Congress as to foreign commerce, must for convenience, if not necessity, from the very nature of the power, not be debarred from any legislation of a local and detailed character on matters connected with that commerce omitted by Congress. And to hold the power of Congress as to such topics exclusive, in every respect, and prohibitory to the States, though never exercised by Congress, as fully as when in active operation, which is the opposite theory, would create infinite inconvenience, and detract much from the cordial co-operation and consequent harmony between both governments, in their appropriate spheres. It would nullify numerous useful laws and regulations in all the Atlantic and commercial States in the Union.

If this view of the subject conflicts with opinions laid down *obiter* in some of the decisions made by this court, (9 *Wheat.*, 209; 12 *ibid.*, 438; 16 *Peters*, 543,) it corresponds with the conclusions of several judges on this point, and does not, in my understanding of the subject, contradict any adjudged case in point. 5 *Wheat.*, 49; *Wilson v. Blackbird Creek Marsh Company*, 2 *Peters*, 245; 11 *ibid.*, 132; 14 *ibid.*, 579; 16 *ibid.*, 627, 664; 4 *Wheat.*, 196.

As a general rule, the power of a State over all matters not granted away must be as full in the bays, ports, and harbors within her territory, *intra fauces terre*, as on her wharves and shores, or interior soil. And there can be little check on such legislation, beyond the discretion of each State, if we consider the great conservative reserved powers of the States, in their Quarantine or health system, in the regulation of their internal commerce, in their authority over taxation, and, in short, every local measure necessary to protect themselves against persons or things dangerous to their peace and their morals.

It is conceded that the States may exclude pestilence, either to the body or mind, shut out the plague or cholera, and, no less, obscene paintings, lottery tickets, and convicts. *Holmes v. Jennison, et al.*, 14 *Peters*, 568; 9 *Wheat.*, 203; 11 *Peters*, 133. How can they be sovereign within their respective spheres, without power to regulate all their internal commerce, as well as police, and direct how, when, and where it shall be conducted in articles intimately connected either with public morals, or public safety, or the public prosperity? See *Vattel*, B. 1, ch. 19, 219, 231.

The list of interdicted articles and persons is a long one in most European governments, and, though in some cases not very judicious or liberal, is in others most commendable; and the exclusion of opium from China is an instance well known in Asia, and kindred in its policy. The introduction and storage of gunpowder, in large quantities, is one of those articles long regulated and forbidden here. *New York v. Milne*, 11 *Peters*, 102. Lottery tickets and indecent prints are also a common subject of prohibition almost everywhere. 6 *Greenleaf*, 412; 4 *Blackford*, 107.

So the power to forbid the sale of *things* is surely as extensive, and rests on as broad

principles of public security and sound morals, as that to exclude *persons*. And yet who does not know that slaves have been prohibited admittance by many of our States, whether coming from their neighbors or abroad? And which of them, cannot forbid their soil from being polluted by incendiaries and felons from any quarter?

Nor is there, in my view, any power conferred on the General Government which has a right to control this matter of internal commerce or police, while it is fairly exercised so as to accomplish a legitimate object, and by means adapted legally and suitable to such end alone. New Hampshire has, for many years, made it penal to bring into her limits paupers even from other States; and this is believed to be a power exercised widely in Europe among independent nations, as well as in this country, among the States. —*New Hampshire Revised Statutes—Paupers*, 140.

It is the undoubted and reserved power of every State here, as a political body, to decide, independent of any provisions made by Congress, though subject not to conflict with any of them when rightful, who shall compose its population, who become its residents, who its citizens, who enjoy the privileges of its laws, and be entitled to their protection and favor, and what kind of property and business it will tolerate and protect. And no one government, or its agents or navigators, possess any right to make another State against its consent, a penitentiary, or hospital, or a poor-house farm for its wretched outcasts, or a receptacle for its poisons to health, and instruments of gambling and debauchery.

There may be some doubt whether the General Government, or each State, possesses the prohibitory power, as to persons or property of certain kinds, from coming into the limits of the State. But it must exist somewhere; and it seems to me rather a police power, belonging to the States, and to be exercised in the manner best suited to the tastes and institutions of each, than one any where granted to or proper to the peculiar duties the General Government.

Or, if vested in the latter at all, it is but concurrent.

Justice McLean did not concur, however, with the Chief Justice and Justice Woodbury, as to the power of States over commerce, but thus distinctly recognized the internal police power of the States:

“The acknowledged police power of a State extends often to the destruction of property. A nuisance may be abated. Every thing prejudicial to the health or morals of a city may be removed. Merchandize, from a port where a contagious disease prevails, being liable to communicate the disease, may be excluded; and, in extreme cases, it may be thrown into the sea. This comes in direct conflict with the regulation of commerce, and yet no one doubts the local power. It is a power essential to self-preservation, and exists, necessarily, in every organized community. It is, indeed, the law of nature, and is possessed by man in his individual capacity. He may resist that which does harm him, whether he be assailed by an assassin, or approached by poison. And it is the settled construction of every regulation of commerce, that, under the sanction of its general laws, no person can introduce into a community malignant diseases, or any thing which contaminates its morals, or endangers its safety. And this is an acknowledged principle applicable to all general regulations. Individuals, in the enjoyment of their own rights, must be careful not to injure the rights of others.

“From the explosive nature of gunpowder, a city may exclude it. Now this is an article of commerce, and is not known to carry infectious disease; yet, to guard against a contingent injury, a city may prohibit its introduction. These exceptions are

always implied in commercial regulations, where the General Government is admitted to have the exclusive power. They are not regulations of commerce, but acts of self-preservation. And although they affect commerce to some extent, yet such effect is the result of the exercise of an undoubted power in the State.

“In all matters of government, and especially of police, a wide discretion is necessary. It is not susceptible of an exact limitation, but must be exercised under the changing exigencies of society. In the progress of population, of wealth, and of civilization, new and vicious indulgences spring up, which require restraints that can only be imposed by the legislative power. When this power shall be exerted, how far it shall be carried and where it shall cease, must mainly depend upon the evil to be remedied. Under the pretence of a police regulation, a State cannot counteract the commercial power of Congress. And yet, as has been shown, to guard the health, morals, and safety of the community, the laws of a State may prohibit an importer from landing his goods, and may sometimes authorize their destruction. But this exception to the operation of the general commercial law is limited to the existing exigency.

“The police power of a State and the foreign commercial power of Congress must stand together. Neither of them can be so exercised as materially to affect the other. The sources and objects of these powers are exclusive, distinct, and independent, and are essential to both governments.”

And Justice Grier, in the same case, said :—

It has been frequently decided by this court, “that the powers which relate to merely municipal regulations, or what may more properly be called internal police, are not surrendered by the States, or restrained by the Constitution of the United States; and that consequently, in relation to these, the authority of a State is complete, unqualified, and conclusive.” Without attempting to define what are the peculiar subjects or limits of this power, it may safely be affirmed that every law for the restraint and punishment of crime, for the preservation of the public peace, health, and morals, must come within this category.

As subjects of legislation, they are from their very nature of primary importance; they lie at the foundation of social existence; they are for the protection of life and liberty, and necessarily compel all laws on subjects of secondary importance, which relate only to property, convenience, or luxury, to recede, when they come in conflict or collision. “*Salus populi suprema lex.*”

If the right to control these subjects be “complete, unqualified and exclusive” in the State Legislatures, no regulations of secondary importance can supersede or restrain their operations, on any ground of prerogative or supremacy. The exigencies of the social compact require that such laws be executed before and above all others. It is for this reason that Quarantine laws, which protect the public health, compel mere commercial regulations to submit to their control. They restrain the liberty of the passengers, they operate on the ship which is the instrument of commerce, and its officers and crew, the agents of navigation. They seize the infected cargo, and cast it overboard. The soldier and the sailor, though in the service of the government, are arrested, imprisoned, and punished for their offences against society. Paupers and convicts are refused admission into the country. All these things are done; not from any power which the States assume to regulate commerce or to interfere with the regulations of Congress, but because police laws for the preservation of health, prevention of crime, and protection of the public welfare, must of necessity have full and free operation, according to the exigency which requires their interference.



The immediate question at issue in the cases of *Smith v. Turner* and *Norris v. City of Boston* was not, however, made dependent on the construction of the *ninth* section of the *first* article of the Constitution, but was, whether the enactment of certain laws of New York and Massachusetts, imposing a tax upon passengers, either foreigners or citizens coming into the ports in those States, was in conflict with the power of Congress over commerce. The case of *Smith v. Turner* arose under the health laws of New York. By the *seventh* section of an act of that State, relating to the Marine Hospital, it was provided "that the health commissioner shall demand, and be entitled to receive," &c., "from the master of every vessel from a foreign port, for himself and each cabin passenger," &c., "one dollar," and "the master of each coasting vessel from the States of New Jersey, Connecticut, and Rhode Island, shall not pay for more than one voyage in each month," &c. The *eighth* section provided that the moneys so received should be denominated "hospital moneys;" and the *ninth* gave "each master paying hospital moneys, a right to demand and recover from each person the sum paid on his account." The *tenth* provided for a forfeiture of \$100 in case of the master's failure to pay within a certain time; and the *eleventh* required the commissioners of health to account to the Comptroller of the State, and, in case the sum received in any one year exceeded the expenses of their trust, they were to pay the surplus to the Treasurer of the Society for the Reformation of Juvenile Delinquents, &c. The plaintiff in error was master of the British ship *Henry Bliss*, and landed at New York in June, 1841, two hundred and ninety steerage passengers, and, refusing to pay the required tax, the defendant in error brought an action against him, therefor, whereupon he filed a demurrer, on the ground that the act was a regulation of commerce, and in conflict with the Constitution of the United States. The Supreme Court of the State overruled the demurrer, and the Court of Errors affirmed the judgment, and thereupon it was taken before the Supreme Court of the United States. Justice McLean, in delivering the opinion of the court, concurred in by Justices Catron, Grier, McKinley, and Wayne, and dissented to by Chief Justice Taney, and Justices Nelson, Daniel and Woodbury, considered the case under two general heads: "1. Is the power of Congress to regulate commerce an exclusive power?" and "2. Is the statute of New York a regulation of commerce?" And both these propositions were ruled in the affirmative by the court. The case of *Norris v. the City of Boston* brought before the court the judgment of the Supreme Court of Massachusetts, which was in favor of the constitutionality of "an act relating to alien passengers," passed 20th April, 1837, by the Legislature of that State, and which contained provisions which, according to the view taken in the case of *Smith v. Turner*, were considered regulations of commerce, and not within the constitutional power of the State to enact. These provisions were as follows:—

"Sec. 1. When any vessel shall arrive at any port or harbor within this State, from any port or place without the same, with alien passengers on board, the officer or officers whom the mayor and aldermen of the city, or the selectmen of the town where it is proposed to land such passengers, are hereby authorized and required to appoint, shall go on board said vessels and examine into the condition of said passengers.

"Sec. 2. If, on such examination, there shall be found among said passengers any lunatic, idiot, maimed, aged or infirmed person, incompetent, in the opinion of the officer so examining, to maintain themselves, or who have been paupers in any country, no such alien passenger shall be permitted to land, until the master, owner, consignee or agent of such vessel, shall have given to such city or town a bond in the sum of one thousand dollars, with a good and sufficient security, that no such lunatic, or indigent passenger shall become a city, town, or State charge, within ten years from the date of the said bond.

"Sec. 3. No alien passenger, other than those spoken of in the preceding section, shall be permitted to land until the master, owner, consignee, or agent of such vessel, shall pay to the regularly appointed boarding officer the sum of two dollars for each passenger so landing; and the money so collected shall be paid into the treasury of the city or town, to be appropriated as the city or town may direct for the support of foreign paupers."

All the Judges delivered written opinions. The introductory part of that of Judge Wayne gives a clear and succinct view of the decision of the majority of the court in these cases, which is as follows:

I agree with Mr. Justice McLean, Mr. Justice Catron, Mr. Justice McKinley, and Mr. Justice Grier, that so much of the laws of Massachusetts and New York as are in question in the cases, are unconstitutional and void. I would not say so, if I had any—the least doubt of it; for I think it obligatory upon this court, when there is a doubt of the unconstitutionality of a law, that its judgment should be in favor of its validity. I have formed my conclusions in these cases, with this admission constantly in mind.

Before stating, however, what they are, it will be well for me to say, that the five judges who concur in giving the judgment in these cases, do not differ from each other on the grounds upon which our judgment has been formed, except in one particular, in no way at variance with our united conclusion; and that is, that a majority of us do not think it necessary in these cases to re-affirm, with our brother McLean, what this court has long decided—that the constitutional power of Congress to regulate "commerce with foreign nations, and among the several States, and with the Indian tribes," is exclusively vested in Congress; and that no part of it can be exercised by a State.

I believe it to be so, just as it is expressed in the preceding sentence, and in the sense in which those words were used by this court in the case of *Gibbons v. Ogden*, (9 Wheaton.)

All that was decided in that case remains unchanged by any subsequent opinion or judgment of this court. Some of the judges of it have, in several cases, expressed opinions that the power to regulate commerce is not exclusively vested in Congress. But they are individual opinions, without judicial authority to overrule the contrary conclusion, as it was given by this court in *Gibbons v. Ogden*.

In my view, after a very careful perusal of those opinions, of those also of Mr. Justice McKinley and Mr. Justice Grier, I think the court means to decide—

1. That the acts of New York and Massachusetts imposing a tax upon passengers,

either foreigners or citizens, coming into the ports in these States, either in foreign vessels or vessels of the United States, from foreign nations or from ports in the United States, are unconstitutional and void; being in their nature regulations of commerce, contrary to the grant in the Constitution to Congress, to regulate commerce with foreign nations and among the several States.

2. That the States of this Union cannot constitutionally tax the commerce of United States, for the purpose of paying any expenses incident to the execution of their police laws; and that the commerce of the United States includes an intercourse of persons, as well as the importation of merchandise.

3. That the acts of Massachusetts and New York, in question in these cases, conflict with treaty stipulations existing between the United States and Great Britain, permitting the inhabitants of the two countries "freely and securely to come with their ships and cargoes to all such places, ports, and rivers, in the territories of each country to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any parts of said territories, respectively; also, to hire and occupy houses and warehouses for the purpose of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, but subject always to the laws and statutes of the two countries, respectively;" and that said laws are therefore unconstitutional and void.

4. That the Congress of the United States having by sundry acts, passed at different times, admitted foreigners into the United States with their personal luggage and tools of trade, free from all duty or imposts, that the acts of Massachusetts and New York imposing any tax upon foreigners or immigrants for any purpose whatever, whilst the vessel may have arrived within the territorial limits of either of the States of Massachusetts or New York, and before the passengers have here landed, are in violation of said acts of Congress, and therefore unconstitutional and void.

5. That the acts of Massachusetts and New York, in so far as they impose any obligation upon the owners or consignees of vessels, or upon the captains of vessels or freighters of the same, arriving in the ports of the United States within the said States, to pay any tax or duty of any kind whatever, or to be in any way responsible for the same, *for passengers arriving in the United States, or coming from a port in the United States*, are unconstitutional and void; being contrary to the constitutional grant to Congress to regulate commerce with foreign nations and among the several States, and to legislation of Congress under the said grant or power, by which the United States have been laid off into collection districts, with ports of entry established within the same, and prescribing the commercial regulations under which vessels, their cargoes, and passengers, are to be admitted into the ports of the United States, as well from abroad as from other ports of the United States. That the act of New York now in question, in so far as it imposes a tax upon passengers arriving in vessels from other ports in the United States, is properly in this case before this court for construction, and that the said tax is unconstitutional and void. That the ninth section of the first article of the Constitution includes within it the migration of other persons, as well as the importation of slaves, and in terms recognizes that other persons as well as slaves may be the subjects of importation and commerce.

6. That the sixth clause of the ninth section of the first article of the Constitution, prohibiting any "preference from being given by any regulation of commerce or revenue to the ports of one State over those of another State," and that "vessels bound to or from one State shall not be obliged to enter, clear, or pay duties in another," is a limitation upon the power of Congress to regulate commerce, for the purpose of producing entire

commercial equality within the United States, and also a prohibition upon the States to destroy such equality by any legislation prescribing a condition upon which vessels bound from one State shall enter the port of another State.

7. That the tax imposed upon passengers by the acts in Massachusetts and New York is unconstitutional and void, because each of them conflicts with so much of the first clause of the eighth section of the first article of the Constitution which enjoins that all duties and imposts are as real and obligatory upon the States, in the absence of all legislation by Congress, as if the uniformity had been made by the legislation of Congress; and that such constitutional uniformity is interfered with and destroyed by any State imposing any tax upon the intercourse of persons from State to State, or from foreign countries to the United States.

8. That the power of Congress to regulate commerce with foreign nations and among the several States includes navigation upon the high seas, and in the bays, harbors, lakes, and navigable waters within the United States; and that any tax by a State in any way affecting the *right of navigation*, or subjecting the exercise of the right to a condition, is contrary to the aforesaid grant.

9. That the States of this Union may, in the exercise of their police powers, pass Quarantine and health laws, interdicting vessels coming from foreign ports, or ports within the United States, from landing passengers and goods; prescribe the places and time for vessels to quarantine, and impose penalties upon persons for violating the same; and that such laws, though affecting commerce in its transit, are not regulations of commerce, prescribing terms upon which merchandise and persons shall be admitted into the ports to which they are bound, and that the States may, in the exercise of such police power, without any violation of the power in Congress to regulate commerce, exact from the owner or consignee of a quarantined vessel, and from the passengers on board of her, such fees as will pay the State the cost of their detention and of the purification of the vessel and the apparel of the persons on board.

Justice McLean said, in the same case:—

The police power of the State cannot draw within its jurisdiction objects which lie beyond it. It meets the commercial power of the Union in dealing with subjects under the protection of that power, yet it can only be exerted under peculiar emergencies and to a limited extent. In guarding the safety, the health, and the morals of its citizens, a State is restricted to appropriate and constitutional means. If extraordinary expense be incurred, an equitable claim to an indemnity can give no power to a State to tax objects not subject to its jurisdiction.

The Attorney General of New York admitted that, if the commercial power were exclusively vested in Congress, no part of it can be exercised by a State. The soundness of this conclusion is not only sustainable by the decisions of this court, but by every approved rule of construction. That the power is exclusive, seems to be as fully established as any other power under the Constitution which has been controverted.

A tax or duty upon tonnage, merchandise, or passengers, is a regulation of commerce, and cannot be laid by a State, except under the sanction of Congress, and for the purposes specified in the Constitution. On the subject of foreign commerce, including the transportation of passengers, Congress have adopted such regulations as they deemed proper, taking in view our relations with other countries. And this covers the whole ground. The act of New York which imposes a tax on passengers of a ship from a foreign port, in the manner provided, is a regulation of foreign commerce, which is exclusively vested in Congress: and the act is therefore void.

### Justice Grier held the following language:—

It must be borne in mind (what has sometimes been forgotten) that the controversy in this case is not with regard to the right, claimed by the State of Massachusetts in the second section of this act, to repel from her shores lunatics, idiots and criminals, or paupers, which any foreign country, or even one of her sister States, might endeavor to thrust upon her; nor the right of any State, whose domestic security might be endangered by the admission of free negroes, to exclude them from her borders. This right of the States had its foundation in the sacred law of self-defence, which no power granted to Congress can restrain or annul. It is admitted by all that those powers which relate to merely municipal legislation, or what may be more properly called *internal police*, are not surrendered or restrained; and cautionary measures against the moral pestilence of paupers, vagabonds, and convicts, as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported. The case of *New York v. Milne* asserts this doctrine, *and no more*. The law under consideration in that case did not interfere with *passengers*, as such, either directly or indirectly, *who were not paupers*. It put forth no claim to tax all persons for leave to land and pass through the State to other States, or a right to regulate the intercourse of foreign nations with the United States, or to control the policy of the General Government with regard to immigrants.

But what is the claim set up in the third section of the act under consideration, with which *alone* we have now to deal?

It is not the exaction of a fee or toll from passengers for some personal service rendered to them, nor from the master of the vessel for some inspection, or other service rendered either to the vessel or its cargo. It is not a fee or tax for a license to foreigners to become denizens or citizens of the Commonwealth of Massachusetts; for they have sought no such privilege, and, so far as is yet known, may have been on their way to some other place.

It is not an exercise of the police power with regard to paupers, idiots, or convicts. The second section effectually guards against injury from them. It is only after the passenger has been found on inspection *not* to be within the description whose crimes or poverty require exclusion, that the master of the vessel is taxed for leave to land him. Had this act commenced with the third section, might it not have been truly entitled "An act to raise revenue off vessels engaged in the transportation of passengers?" Its true character cannot be changed by its collocation; nor can it be termed a police regulation, because it is in the same act which contains police regulations.

In its letter and the spirit it is an exaction from the master, owner, or consignee of a vessel engaged in the transportation of passengers, graduated on the freight or passage-money earned by the vessel. It is, in fact, a duty on the vessel; not measured by her tonnage, it is true, but producing a like result, by merely changing the ratio. It is a taxation of the master as representative of the vessel and her cargo. It has been argued that this is not a tax on the master or the vessel, because in effect it is paid by the passenger having enhanced the price of his passage. Let us test the value of this argument by its application to other cases that naturally suggest themselves. If this act had, in direct terms, compelled the master to pay a tax or duty levied or graduated on the ratio of the tonnage of his vessel, whose freight was earned by the transportation of passengers, it might have been said, with equal truth, that the duty was paid by the passenger, and not by the vessel. And so, if it had laid an impost on the goods of the passenger imported by the vessel, it might have been said, with equal reason, it was only a tax on the passenger at last, as it comes out of his pocket, and graduating it by the amount of his goods, affects only the *modus* or *ratio* by which its amount is calculated. In this

way the most stringent enactments may be easily evaded. It is a just and well-settled doctrine established by this court, "that a State cannot do that *indirectly* which she is forbidden by the Constitution to do *directly*." If she cannot levy a duty or tax from the master or owner of the vessel engaged in commerce, graduated on the tonnage or admeasurement of the vessel, she cannot effect the same purpose by merely changing the ratio, and graduating it on the number of masts, or of mariners, the size and power of the steam-engine, or the number of passengers which she carries. We have to deal with things, and we cannot change them by changing their names. Can a State levy a duty on vessels engaged in commerce and not owned by her citizens, by changing its name from a "duty on tonnage" to a tax on the master, or an impost upon imports, by calling it a charge on the owner or supercargo, and justify this evasion of a great principle by producing a dictionary or a dictum to prove that a ship-captain is not a vessel, nor a supercargo an import?

## CHAPTER XIII.

### COLONIAL NATURALIZATION LAWS.

BEFORE the adoption of the Constitution of the United States, the power of naturalization resided in the several States. In Pennsylvania, the British statute of 13th Geo. II., ch. 7, furnished the general rule for naturalizing such foreign Protestants, and others therein mentioned, as were settled or should settle in the then colonies of America. An act was passed, however, by the Legislature of the colony, on the 3d February, 1742, "for naturalizing such foreign Protestants as are settled or shall settle within this province, who not being of the people called Quakers, do conscientiously refuse the taking of an oath." This act provided as follows:—

"All persons being Protestants, born out of the legience of our present sovereign, King George the Second, his heirs and successors, who shall conscientiously refuse an oath, and have inhabited and resided, or shall inhabit or reside, for the space of seven years or more within this province, and shall not have been absent out of the same, or some other of the colonies, in the said act of Parliament mentioned, for a longer space than two months at any one time, during the said seven years, and shall make and subscribe the declaration of fidelity, and the profession of his Christian belief, and take and affirm the effect of the adjuration oath, before the chief judge, or other judge of the Supreme Court of this province, in such sort, manner and form, as in and by the said act of Parliament is directed to be done and performed by the people called Quakers, shall be deemed, adjudged and taken to be the king's natural born subjects of this province, to all intents." See *Dallas' ed., vol. i., Penn. Laws.*

After the Declaration of Independence, this law was superseded. The State Constitution, adopted in 1776, contained the following provision:

"Every foreigner of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land, or other real estate, and after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this State, except that he shall not be capable of being elected a representative until after two years' residence."

The *forty-second* section of the Constitution of the State of New York, adopted in 1777, authorized the Legislature to naturalize persons; but it expressly thus qualified this power of the Legislature in the following manner;

"Provided all such of the persons so to be by them naturalized, as being born in parts beyond sea, and out of the United States of America, shall come to settle in, and become subjects of this State, shall take an oath of allegiance to this State; and abjure and renounce all allegiance and subjection to all and every foreign king, prince, potentate, and State, in all matters, *ecclesiastical as well as civil*."

This was intended, and so it operated, says Chancellor Kent, in his *Commentaries*, vol. ii., 73, to exclude from the benefits of naturalization, Roman Catholics who acknowledged the spiritual supremacy of the pope, and it was the result of former fears and prejudices (still alive and active at the commencement of our revolution) respecting the religion of the Romish church, which European history had taught us to believe was incompatible with perfect national independence, or freedom and good order of civil society.

In Virginia, early in the session of May, 1779, Mr. Jefferson prepared and obtained leave to bring in a bill, declaring who should be deemed citizens, asserting the natural right of expatriation, and prescribing the mode of exercising it. This, when he withdrew from the House on the first of June following, he left in the hands of George Mason, and it was passed on the 26th of that month. See *Jefferson's Works*, vol. i., p. 80, *Autobiography*. The following were the provisions of the act thus passed:—

"An Act declaring who shall be deemed citizens of this Commonwealth. *Be it enacted by the General Assembly*, That all white persons born within the territory of the Commonwealth, and all who have resided therein two years next before the passing of this act; and all who shall hereafter migrate into the same, other than alien enemies, and shall, before any Court of Record, give satisfactory proof, by their oath or affirmation, that they intend to reside therein; and moreover, shall give assurance of fidelity to the Commonwealth; and all infants, whenever born, whose father, if living, or otherwise, whose mother was a citizen at the time of their birth, or who migrate hither, their father, if living, or otherwise, their mother becoming a citizen, or who migrate hither without father or mother, shall be deemed citizens of this Commonwealth until they relinquish that character, in manner as hereinafter expressed; and all others not being citizens of any of the United States of America, shall be deemed aliens. The clerk of the court

shall enter such oath of record, and give the person taking the same a certificate thereof for which he shall receive the fee of one dollar."

The State of Maryland, in July, 1779, passed a law on the subject, as follows :

*Be it enacted by the General Assembly of Maryland, That EVERY PERSON who shall hereafter come into this State, from any Nation, Kingdom, or State, and shall repeat and subscribe a declaration of his belief in the Christian religion, and take, repeat and subscribe the following oath, to wit: "I do swear that I will hereafter become a subject of the State of Maryland, and will be faithful, and bear true allegiance to said State, and that I do not hold myself bound to yield allegiance or obedience to any King or Prince, or any State or government," shall thereupon and thereafter be adjudged, deemed and taken to be a natural born subject of this State.*

In the act of the Legislature of Georgia, passed on the 7th February, 1785, it is provided that an alien may become a citizen, "who hath resided at least twelve months in the same, and, after the expiration thereof, doth obtain from the Grand Jury of the county where he resides, a certificate, purporting that he hath demeaned himself as an honest man, and friend to the government of the State," and upon his having said certificate duly recorded, and taking the oath of allegiance. The third section of the act is as follows :

*Provided always, and be it enacted by the authority aforesaid, That no such person (alien born, thus made a citizen) shall be a member of the General Assembly, or of the Executive Council, or hold any office of trust or profit, or vote for members of the General Assembly, for the term of seven years, and until the Legislature shall, by special act for that purpose, enable such person so to do. And provided also, that all such aliens, or persons aforesaid, shall be subject and liable to pay such alien duties as have been heretofore, or may hereafter be imposed by the Legislature. See Watkins' Digest, 302-3.*

By the fortieth article of the Constitution of North Carolina, adopted in 1776, it was provided : "That every foreigner who comes to settle in this State, having first taken an oath of allegiance to the same, may purchase, or, by other just means, acquire, hold, and transfer land, or other real estate ; and after one year's residence, shall be deemed a free citizen."

In Massachusetts, on the strength of an act passed in 1777, persons born abroad, and coming into that State after 1776, and before 1783, and remaining there voluntarily, were adjudged to be citizens. 2 *Pick.*, 394.

The Supreme Court in Connecticut adopted the same rule without the aid of any statute, and it was held, that a British soldier, who came over with the British army in 1775, and deserted, and came and settled in Connecticut in 1778, and remained there afterwards, became, of course, a citizen, and ceased to be an alien. 5 *Day's Rep.*, 169



## CHAPTER XIV.

### POLICY DURING THE REVOLUTION.

DURING the Revolution, the Continental Congress established the policy of not employing any but native born citizens in the foreign service of the country. On examining the Journal, there will be found the following resolution, appended to a report made by a committee, consisting of Mr. Jefferson, Mr. Sherman, Mr. Gerry, Mr. Read, and Mr. Williams :

*"Resolved, That it is inconsistent with the interests of the United States to appoint any person, not a natural born citizen thereof, to the office of minister, charge d'affaires, consul, vice-consul, or to any other civil department in a foreign country; and that a copy of this resolve be transmitted to Messrs. Adams, Franklin, and Jay, ministers of the said States, in Europe."*

And the same policy was pursued, as far as practicable, by Washington, as will be seen by the following instructions for the officers of the several regiments of the Massachusetts Bay forces, who were immediately to go upon the Recruiting Service. *See Am. Archives, Fourth Series, vol. ii., p. 1630 :*

You are not to enlist any deserter from the ministerial army, or any stroller, negro, or vagabond, or person suspected of being an enemy to the liberty of America, nor any under eighteen years of age.

You are not to enlist any person who is not an American born, unless such person has a wife and family, and is a settled resident in this country.

The persons you enlist must be provided with good and complete arms.

Given at the Head-Quarters, at Cambridge, this 10th day of July, 1775.

HORATIO GATES, *Adj. Gen.*

*Extracts from the original Orderly Book, left by the late Gen. Hand, who was the Adjutant General of the American Army, at the close of the Revolution.*

*Cambridge Head-Quarters, July 7, 1775.*

*By his Excellency, George Washington.*

#### GENERAL ORDERS :

*Parole, Dorchester, Countersign, Exeter.*

The General has great reason, and is displeased with the negligence and inattention of those officers who have placed as sentries at the outpost men with whose characters they are unacquainted. He, therefore, orders that, for the future, no man shall be appointed to those stations who is not A NATIVE of this country ; this order is to be considered a standing one, and the officers are to pay obedience to it at their peril.

FOX, *Adj. General of the Day.*

*Head-Quarters, Valley Forge, March 17, 1779.*

[GENERAL ORDERS.]—One hundred chosen men are to be annexed to the guard of the Commander-in-Chief, for the purpose of forming a corps, to be instructed in the manœuvres necessary to be introduced into the army, and serve as models for the execution of them. As the General's Guard is composed of Virginians, the hundred drafts will be taken from the troops of the other States.

*Description of the Men:* Height, from 5 feet 8 to 5 feet 10 inches; age, from 20 to 30 years; robust constitutions, well-limbed, and formed for activity, and men of established character for sobriety and fidelity. **THEY MUST BE AMERICANS BORN.**

In Spark's publication of the *Washington Papers*, there are a number of letters, which disclose the opinion entertained by Washington on the subject, and among which are the following :

*Morristown, May 7, 1777.*

*To Richard Henry Lee :* DEAR SIR—I take the liberty to ask you what Congress expects I am to do with the many foreigners that have at different times been promoted to the rank of field officers, and by their last resolve, two to that of Colonels? These men have no attachment for the country, further than interest binds them. Our officers think it exceedingly hard, after they have toiled in the service, and have sustained many losses, to have strangers put over them, whose merit perhaps is not equal to their own, but whose *effrontery* will take no denial. It is by the zeal and activity of our own people that the cause must be supported, and not by the few hungry adventurers.

I am, &c.,

GEORGE WASHINGTON.

[Vol. IV., p. 423.]

*Middlebank, June 1, 1777.*

*To the Same :*—You will, before this can reach you, have seen Monsieur Decoudray; what his real expectations are, I know not; but I fear if his appointment is equal to what I have been told is his expectation, it will be attended with unhappy consequences, to say nothing of the policy of entrusting a department on the execution of which the salvation of the army depends, to a *foreigner*, who has no other tie to bind him to the interest of the country than honor. I would beg leave to observe, that by putting Mr. D. at the head of the artillery, you will lose a very valuable officer in General Knox, who is a man of great military reading, sound judgment, and clever conceptions, and who will resign if any one is put over him.

I am, &c.

GEORGE WASHINGTON.

[Vol. IV., p. 446.]

*White Plains, July 24, 1778.*

*To Governor Morris, Esq. :* DEAR SIR—The design of this is to touch cursorily upon a subject of very great importance to the being of these States; much more so that will appear at first view—I mean the appointment of so many **FOREIGNERS** to offices of high rank and trust in our service.

The lavish manner in which rank has hitherto been bestowed on these gentlemen, will certainly be productive of one or the other of these two evils, either to make us despicable in the eyes of Europe, or become a means of pouring them in upon us like a torrent, and adding to our present burden.

But it is neither the expense nor the trouble of them I most dread; there is an evil more extensive in its nature and fatal in its consequence to be apprehended, and that

is, the driving of all our officers out of the service, and throwing not only our own army, but our military councils entirely into the hands of FOREIGNERS.

The officers, my dear sir, on whom you must depend for the defence of the cause, distinguished by length of service and military merit, will not submit much, if any longer to the unnatural promotion of men over them, who have nothing more than a little plausibility, unbounded pride and ambition, and a perseverance in the application to support their pretensions, not to be resisted but by uncommon firmness; men who, in the first instance, say they wish for nothing more than the honor of serving so glorious a cause as volunteers, the next day solicit rank without pay; the day following want money advanced to them; and in the course of a week, want further promotion. The expediency and policy of the measure remain to be considered, and whether it is consistent with justice or prudence to promote these military fortune-hunters at the hazard of our army.

Baron Steuben, I now find, is also wanting to quit his inspectorship for a command in the line. This will be productive of much discontent. In a word, although I think the Baron an excellent officer, *I do most devoutly wish that we had not a single foreigner amongst us*, except the Marquis de Lafayette, who acts upon very different principles from those which govern the rest. Adieu.

I am, most sincerely, yours,

GEORGE WASHINGTON.

See also the *Maxims of Washington*, a recent publication by Appleton & Co. At page 192, there will be found a letter, written in 1777 to Col. Spotswood, in relation to the establishment of his body-guard, concluding as follows:

"You will, therefore, send me none but natives, and men of some property, if you have them. I must insist that in making this choice you give no intimation of my preference for natives, as I do not want to create any invidious distinction between them and the foreigners."

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## CHAPTER XV.

### UNITED STATES NATURALIZATION LAWS.

THE Constitution of the United States provides that Congress shall have the power to establish a uniform rule of naturalization; and the weight of authority, as well as of reason, is, that no State can pass naturalization laws. It was held, however, in the Circuit Court of the United States at Philadelphia, in *Collet v. Collet*, reported in 2 Dallas, 294, that the State Governments still enjoy a concurrent authority with the United States upon the subject of naturalization, and that, though they could not contravene the rule established by Congress, or "exclude those citizens who had been made such by that rule, yet that they might adopt

citizens upon easier terms than those which Congress may deem it expedient to impose." But though this decision was made by two judges of the Supreme Court, with the concurrence of the district judge of Pennsylvania, "it is obvious," says Chancellor Kent in his *Commentaries*, vol. i. 423, "that this opinion was hastily and inconsiderately declared. If the construction given to the Constitution in this case was a true one, the provision would be, in a great degree, useless, and the policy of it defeated. The very purpose of the power was exclusive. It was to deprive the States individually of the power of naturalizing aliens according to their own will and pleasure, and thereby giving them the rights and privileges of citizens in every other State. If each State can naturalize upon one year's residence, when the act of Congress requires five, of what use is the act of Congress, and how does it become a uniform rule?"

Subsequent decisions have, in effect, overruled that in the case of *Collet v. Collet*. Judge Iredell, in the same Circuit Court, in 1797, in the case of the *United States v. Villato*, reported in 2 Dallas, 370, intimated that if the question had not previously occurred, he should be disposed to think, that the power of naturalization operated exclusively, as soon as it was exercised by Congress; and in the case of *Golden v. Prince*, reported in 3 Wash. Cir. Rep., 313, Judge Washington expressed the opinion that the power to naturalize was exclusively vested in Congress. Afterwards, in *Chirao v. Chirac*, reported in 2 Wheaton, 269, the Chief Justice of the United States observed, that the power of naturalization was vested exclusively in Congress. In *Houston v. Moore*, reported in 5 Wheaton, 49, Judge Story mentioned the power in Congress to establish a uniform rule of naturalization, as one which was exclusive, on the ground of there being a direct repugnancy or incompatibility in the exercise of it by the States. Chief Justice Taney, in the cases of *Smith v. Turner* and *Norris v. Boston*, held the following language on the subject:—

It cannot be necessary to say anything upon the article of the Constitution which gives to Congress the power to establish a uniform rule of naturalization. The motive and object of this provision are too plain to be misunderstood. Under the Constitution of the United States, citizens of each State are entitled to the privileges and immunities of citizens in the several States, and no State would be willing that another State should determine for it what foreigner should become one of its citizens, and be entitled to hold lands and to vote at its elections. For without this provision, any one state could have given the right of citizenship in every other State; and as every citizen of a State is also a citizen of the United States, a single State, without this provision, might have given to any number of foreigners it pleased the right to all the privileges of citizenship in commerce, trade, and navigation, although they did not even reside among us.

The nature of our institutions under the Federal Government made it a matter of absolute necessity that this power should be confided to the government of the Union, where all the States were represented, and where all had a voice; a necessity so obvious,

that no statesman could have overlooked it. The article has nothing to do with the admission or rejection of aliens, nor with immigration, but with the rights of citizenship. Its sole object was to prevent one State from forcing upon all the others, and upon the General Government, persons as citizens whom they were unwilling to admit as such.

But, says the editor of the last edition of *Wheaton's International Law*, (*See Appendix*, 627,) though the power of naturalization be nominally exclusive in the Federal Government, its operation, in the most important respects, has been made to depend on the action of the individual States, through their Constitutions and local laws. The right of suing in the United States courts, in controversies with citizens of other States, is one in which the naturalized citizens only participate with foreigners; while the provisions for common citizenship, intended to be secured throughout the Union, are jeopardized by the comprehensive operation given to the police regulations of the several States. The right of holding real estate is not easily connected with citizenship, and in France and other countries of Europe it is possessed by foreigners without naturalization, a privilege which has, also, in the United States, been accorded by treaty stipulations to citizens of other countries. And in those States which by their general laws exclude aliens, special acts are habitually passed for the benefit of individuals, or the right is granted to all, on condition of their complying with certain formalities. The great distinctive characteristic of naturalization, of the *droit de cité*, the right of voting, of exercising the elective franchise on an equality with native citizens, and without the value of the privilege being diminished by its being shared with aliens, is practically controlled by the varying Constitutions and laws of the several States. The qualifications for voters, even in elections under its provisions, are not prescribed in the Constitution of the United States. Citizenship, however, at the time of the adoption of the Federal Constitution, was, under the State Constitutions then in force, universally a requisite, for the electors of the State Legislatures made the electors of the two houses in Congress; while the equality with native citizens of all citizens then naturalized was affirmed, in the provision in reference to the Presidency, by which citizens, at the adoption of the Constitution, were excepted from the exclusion applied, in the case of that office, to those that might thereafter be admitted. It might then well have been inferred that, by making the qualifications of electors as to the term of residence, property, payment of taxes, &c., vary in the different States, for which, looking to diversity in the population of the several sections of the Union, there might have been very good reasons, neither the exclusive right of naturalization by Congress nor the full effect of the exercise of that power would be endangered.

By the Constitution of the United States, it is provided, that the electors for the House of Representatives, in each State, shall have the

qualifications requisite for electors of the most numerous branch of the State Legislatures, (*Art. 1, § 2*;) that the Senate shall be composed of two Senators from each State, chosen by the Legislature thereof—§ 3; and that each State shall appoint, in such manner as the Legislature thereof may dictate, a number of electors equal to the whole number of Senators and Representatives, to which the State may be entitled in the Congress. (*Art. 2, § 1*.) It hence follows, that if the individual States can disfranchise naturalized citizens, (and if they can superadd requirements from them not demanded by natives, it is obvious that they may exclude them altogether from voting,) or if they can admit to the elective franchise those who are not citizens, thereby neutralizing the votes of citizens, not only the Federal power over naturalization becomes a nullity, but a minority of actual citizens, by the aid of aliens, may control the government of the States, and, through the States, the government of the Union.

By the Constitution of Rhode Island, (*Art. 2, § 2*), a discrimination is made in the exercise of the elective franchise, between native and naturalized citizens, only the latter being required to have a freehold; while by the Constitution of Illinois, (*Art. 2, § 27*), it is provided that "in all elections, all white male inhabitants above the age of twenty-one years, having resided in the State six months next preceding the election, shall enjoy the right of an elector." In some States, the free people of African descent, though they are excluded from the provisions of the naturalization law of Congress, nowhere enjoyed, in all respects, equal civil or political privileges with the whites, and have been, by several judicial decisions, declared not to be citizens within the meaning of the Constitution of the United States, are admitted to the elective franchise, either on equal terms with the whites, or, as in New York, on a freehold qualification, according to the rule imposed in Rhode Island, in reference to naturalized citizens. See *inter alia* opinion of Daggett, C. J., of Connecticut, 1833; Meig's Rep., vol. i., p. 333; *State v. Clairborne*; *Mitchell v. Lamar*, in the U. S. C. C. for Ohio; *Opinions of Attorneys-General of U. S.*, vol. i., p. 382.

Congress has not confined the power of naturalizing aliens to the United States courts, but, in the several acts passed on the subject, has authorized State courts to do so; and it has been decided that, having prescribed a uniform rule of naturalization, it may give to the State courts jurisdiction under it. (5 Eng., 621.) In the case of *Prigg v. The Commonwealth of Pennsylvania*, it was, however, ruled by the majority of the United States Supreme Court, that it might well be deemed an unconstitutional exercise of the power of interpretation, to insist that the States are bound to provide means to carry into effect duties of the National Government, which are nowhere delegated or intrusted to them

by the Constitution; and that, on the contrary, the natural, if not the necessary conclusion is, that the National Government, in the absence of all positive provisions to the contrary, is bound, through its own proper departments—legislative, executive, or judiciary, as the case may require—to carry into effect all the rights and duties imposed by the Constitution. (16 *Peters*, 541.) The remark of Mr. Madison, in the *Federalist*, No. 43, said Judge Story, in delivering the opinion of the court in the *Prigg* case, would seem in such cases to apply with peculiar force, which was, that “a right implies a remedy; and where else would the remedy be deposited, than where it is deposited by the Constitution?” meaning, as the context shows, in the government of the United States.

It having been decided that the power of passing naturalization laws is vested exclusively in Congress, (2 *Wheaton*, 269, and 5 *Wheaton*, 49,) and as the Constitution does not authorize Congress to invest State courts with the power to naturalize, it would seem to be clear that Courts of the United States only ought to naturalize aliens, and that Congress exceeded the power conferred upon it by the Constitution, when it authorized State courts to perform the duties of naturalization. Chief Justice Gibson, in giving his opinion in the case of *Moore v. Houston*, spoke as follows on this point; “Under the revenue and post-office laws, jurisdiction is given to the State courts, to carry certain parts of those laws into execution. I will not say at present, whether, according to the Constitution, Congress can compel the State courts to exercise this borrowed jurisdiction. But until the State governments shall prohibit their courts from taking cognizance of questions arising under these laws, I can see no objection to their doing so.” (3 *S. & R.*, 194.) So in the Court of Common Pleas of Franklin county, Ohio, Judge Bates is reported to have given his opinion, that State courts are under no constitutional or legal obligation to perform acts of naturalization as prescribed by the laws of the United States; and this opinion appears to be in conformity with the decision in the *Prigg* case. Like that concerning fugitives from labor, the clause of the Constitution giving Congress power to enact uniform naturalization laws, imposes no duties whatever upon the States, nor authorizes Congress to impose any upon State courts on the subject.

The prevailing and better opinion, therefore, now appears to be, that State courts may refuse to regard the legislation of Congress upon this subject as mandatory upon them, and that it is within the constitutional power of State Legislatures to prohibit them altogether from exercising the duties imposed by the naturalization laws of Congress. This has already been done by the States of Maine, Rhode Island, and Connecticut, which have enacted a law prohibiting their courts from exercising the jurisdiction conferred by Congress to naturalize aliens. In these

States, the United States courts alone can now take cognizance of any application of an alien to be admitted to become a citizen, and the whole business of making citizens, issuing certificates, &c., devolves upon those to whom it naturally and properly belongs. The judges of these courts hold a life tenure, are further removed from political influence than are the judges of the State courts, and therefore more likely to administer rigidly the laws under which aliens may acquire the rights of citizenship. Not dependent upon popular support, or in need of votes to retain their position, they have no purposes of their own to accomplish by an improper administration of the naturalization laws, and are not likely to prostitute their office to party purposes, by allowing improper persons to be naturalized to carry a point at a pending election.

According to the laws of Congress now in force, it will be perceived, that "free white persons" only can be naturalized. "This I presume," says Chancellor Kent, in his *Commentaries*, vol. ii., 72, "excludes the inhabitants of Africa, and their descendants; and it may become a question to what extent persons of mixed blood are excluded, and what shades and degrees of mixture of color disqualify an alien from application for the benefits of the act of naturalization. Perhaps there might be difficulties also as to the copper-colored natives of America, or the yellow or tawny races of the Asiatics, and it may well be doubted whether any of them are "white persons" within the purview of the law. It is the declared law of New York, South Carolina, and Tennessee, and probably so understood in other States, that Indians are not citizens, but distinct tribes, living under the protection of the government, and, consequently, they never can be made citizens under the act of Congress."

The line of distinction between whites and colored is not accurately ascertained. In South Carolina, mulattoes are not white citizens within the meaning of the law, and, according to the case of *State v. Hayes*, 1 *Bailey's Rep.*, 275, persons tinged with negro blood are there regarded as mulattoes. If the admixture of African blood does not exceed the proportion of one-eighth, the person is deemed white in Louisiana, and this too is deemed a proper rule in South Carolina. *State v. Davis*, 2 *Bailey's Rep.*, 558. By an act passed in Virginia, in 1785, which is still in force, every person having one-fourth part or more of negro blood is deemed a mulatto. 4 *Randolph*, 631. The same rule is declared in Indiana in its Revised Statutes of 1838. In Ohio, it has been decided in *Jeffries v. Ankeny*, 11 *Ohio Rep.*, 372, that all persons nearer white than black are *white* persons within the meaning of the State Constitution. So by the case of *Lane v. Baker*, 12 *Ohio Rep.*, 237, youths of negro, Indian and white blood, but of *more than one-half white blood*, are entitled to the benefit of the Common School Fund, under the School Law in favor of white children.



The Constitution of Pennsylvania of 1790 declared that every *freeman* of the age, &c., shall enjoy the rights of an elector; but in the case of *Hobbs v. Fogg*, 6 Watts, 553, it was decided that a negro, or mulatto, was not a *freeman* within the meaning of the Constitution, and therefore not entitled to exercise the right of suffrage under that Constitution. In delivering the opinion of the court, Chief Justice Gibson said that the second section of the fourth article of the Constitution of the United States, which provides that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States, "presents an obstacle to the political freedom of the negro which seems to be insuperable; it is to be remembered that *citizenship* as well as *freedom*, is a constitutional qualification; and how it could be conferred so as to overbear the laws imposing countless disabilities on him in other States, is a problem of difficult solution; in this aspect the question becomes one, not of intention, but of power, and of power so doubtful as to forbid the exercise of it." By the amended Constitution of North Carolina, no free negro, mulatto, or free person of mixed blood, though native born, descended from negro ancestors, to the fourth generation inclusive, *though one ancestor of each generation may have been a white person*, shall vote for members of the Legislature. So in Connecticut, it has been decided that as each State had the right to make citizens of such persons as it pleased, before the adoption of the Federal Constitution, and that as that Constitution does not authorize any but *white* persons to become citizens of the United States, it creates a presumption that no persons of color were made citizens by any of the States while exercising the power, and that this presumption will stand until repelled by positive testimony. *Crandall v. State*, 10 Conn. Rep., 340. And in Tennessee, in the case of *The State v. Clairbone*, it was held that free blacks are not citizens within the provisions of the second section of the fourth article of the United States Constitution. 1 Meigs, 331. So in *Amy v. Smith*, it was decided that no one can be a citizen, under that article of the Constitution, who is not entitled, on the terms prescribed by the institutions of the State, to all the rights and privileges conferred by those institutions upon the highest classes of society. 1 Litt., 334.

The residence and good moral character of the applicant cannot be established by affidavits, but must be proved in court by the testimony of witnesses. 7 Hill, 137. Courts are to receive the testimony, to compare it with the law, and to judge on both law and fact; and if their judgment is entered on record, in legal form, it closes all inquiry, and, like any other judgment, is complete evidence of its own validity. 4 Peters, 406; 7 Cranch, 420; 13 Wendell, 524. A certificate by a competent court, that an alien has taken the oath prescribed by the act respecting naturalization, raises the presumption that the court was satisfied as to the moral

character of the alien, and of his attachment to the principles of the Constitution of the United States. The oath, when taken, confers the right of a citizen. It is not necessary that there should be an order of court admitting the applicant to be a citizen. 6 *Cranch*, 176. In one instance it has been decided that an alien enemy cannot be permitted to make the preparatory declaration. 2 *Gallis*, 11. In *Little's* case, 2 *Browne*, 218, the contrary was, however, held. It has also been decided that the act of 1802, excluding aliens from citizenship, whose country shall be, at the time of the application, at war with the United States, extends to the act of 1804, authorizing the naturalization of the widow and children of persons who, having pursued the directions of the original act, may die before they become naturalized. 5 *Binney*, 371. The act of 1824, authorizing minors to be admitted, applies only to those who were minors at the time of their arrival in the United States. 4 *Eng.*, 191. A married woman may be naturalized. 1 *Cranch, C. C.*, 372. And that without the concurrence of her husband. 16 *Wendell*, 617. In the case of *La Forresterie*, 2 *Mass. Rep.*, 419, it was held that an infant might be naturalized under the act of 1802, on petition of guardian or parent. The naturalization of a father, *ipso facto*, makes his son, then residing in the United States, and under twenty-one years of age, a citizen. 5 *Eng.*, 621. But it does not naturalize the wife, nor such children as are above the age of twenty-one, at the time of the naturalization of the father. 1 *Cowan*, 80. A certificate of naturalization irregularly obtained may be set aside, (2 *N. & M.*, 351;) and the uttering of a forged certificate is punishable as a felony under the act of 3d March, 1813. *United States v. Randolph*, Circuit Court of the United States. *Pittsburg Legal Journal*, June 4, 1853.

A person thus duly naturalized, becomes entitled to all the privileges and immunities of natural born citizens, except that a residence of nine years is requisite to enable him to hold a seat in the United States Senate, and of seven years to hold a seat in the United States House of Representatives. No person except a natural born citizen is eligible, however, to the office of President of the United States, or that of Governor in some of the States.

The second section of the fourth article of the United States Constitution, declaring that the citizens of each State are entitled to all the privileges and immunities of citizens in the several States, applies only to natural born or duly naturalized citizens. If they remove from one State to another, they are entitled to the privileges that persons of the same description are entitled to in the State to which the removal is made, and to none other. The laws and usages of one State cannot be permitted to prescribe qualifications for citizens, to be claimed and exercised in other States, in contravention to their local policy. 2 *Kent*, 71.

In the case of *Corfield v. Coryell*, Judge Washington, in considering the question, what are the privileges and immunities in the several States, said he had no hesitation in confining these expressions to those privileges and immunities which are, in their nature, *fundamental*, which belong of right to the citizens of all free governments, and which have, at all times, been enjoyed by the citizens of the several States which compose this Union, from the time of their becoming free, independent, and sovereign; and of these fundamental principles, he enumerated such as, the right of protection by the government, the enjoyment of life and liberty, to acquire and possess property, to pursue and obtain happiness and safety, to pass through or reside in any other State, to institute and maintain actions, to be exempt from higher taxes than are imposed upon others, enjoy the elective franchise, &c.; but he at the same time decided that these immunities do not apply to every right, and that there are some rights which belong exclusively to resident citizens, under the laws of the State. 4 Wash. C. C. Rep., 381. See also case of *Buckner v. Fipley*, 2 Peters, 586. Aliens, too, have certain privileges conferred upon them by the respective State authorities in which they reside, but they are civil privileges, dictated by a just and a liberal policy, and of a strictly local character. No foreigner, unless duly naturalized, according to the laws of Congress, is entitled to any other privileges than those which the laws of the State in which he resides allow to him; and no other State is bound to admit, nor would the United States admit, to him any privileges to which he is not entitled by treaty, the laws of nations, or the laws of the United States, or the State in which he dwells. 2 Kent, 71.

In the case of *Lynch v. Clarke*, 1 Sandford, ch. Rep., 584, the doctrine relative to the distinction between aliens and citizens in the jurisprudence of the United States was ably discussed, and it was adjudged that the subject of alienage, under our national compact, was a *national* subject, and the law which prevailed on this subject in all the United States, became the *common law of the United States* when the union of the States was consummated. According to this governing principle, all those born within the jurisdiction and allegiance of the United States, without any regard or reference to the political condition or allegiance of their parents, except the children of ambassadors, are natives. The right of citizenship, as distinguished from alienage, is a national right, character or condition, and does not pertain to the individual States, separately considered. The question is of national, and not individual sovereignty, and is governed by the principles of the common law which prevail in the United States, and became under the Constitution, to a limited extent, a system of national jurisprudence. It was accordingly held in that case, that the complainant, who was born in New York, of alien parents, during their temporary sojourn there, and returned while

an infant, being the first year of her birth, with their parents to their native country, and always resided there afterwards, was a citizen of the United States by birth. This was the principle of the English common law in respect to all persons born within the king's allegiance, and was the law of the colonies, and became the law of each and all of the States when the Declaration of Independence was made, and continued so until the establishment of the Constitution of the United States, when the whole exclusive jurisdiction of this subject of citizenship passed to the United States, and the same principle has there remained. *Kent*, vol. ii., 39.

In the case of *The State v. Hunt*, in South Carolina, in 1835, (2 *Hills, S. C. Rep.*, 1,) the subject of allegiance, and to whom due under the Constitution of the United States, was profoundly discussed, and it was declared by a majority of the Court of Appeals that the citizens owed allegiance to the United States, and subordinately to the State under which they lived—that allegiance was not now used in the fental sense, arising out of the doctrine of tenure, and that we owed allegiance or obedience, to both governments, to the extent of the constitutional powers existing in each. The court held, that an oath prescribed by an act of the Legislature of December, 1833, to be taken by every militia officer, that he should be *faithful, and true allegiance* bear to the State of South Carolina, was unconstitutional and void, as being inconsistent with the allegiance of the citizen to the Federal Government. The court consequently condemned the ordinance of the Convention of South Carolina of November, 1832, as containing unsound and heretical doctrine, when it declared that the *allegiance* of the citizens was due to the State, and *obedience* only, and not allegiance, could be due to any other delegated power.

The question as to the right of citizens of the United States to expatriate themselves, has been a subject of much embarrassment to the courts, and has been very fully discussed in *Talbot v. Jansen*, 3 *Dallas*, 133; case of *Isaac Williams*, 2 *Cranch*, 82 (note); and *The Charming Betty*, 2 *Cranch*, 64; *Santissima Trinidad*, 7 *Wheaton*, 283; *United States v. Gillies*, 1 *Peters, C. C. R.*, 161; 3 *Peters*, 99, 242; *United States v. Williams*, 4 *Hall's L. Journal*, and 9 *Mass. Rep.*, 461. From a historical review of the principal discussions in the federal courts on this subject, Chancellor Kent arrives at the conclusion, that the better opinion would seem to be, that a citizen cannot renounce his allegiance to the United States without the permission of government, to be declared by law; and that, as there is no existing legislative regulation in the case, the rule of the English common law remains unaltered. 2 *Kent*, 48. This was admitted to be the rule in the *Sailor's Snug*

*Harbor case*, 3 *Peters*, 99, and expressly declared in *Shanks v. Dupont*, 3 *Peters*, 242.

The Court of Appeals of Kentucky held; however, otherwise, as late as 1839. It declared expatriation a practical and fundamental American doctrine, and that, in the absence of a statute regulation on the subject, a citizen may, in good faith, abjure his country; and that the assent of the government was to be presumed, and he be deemed denationalized. 9 *Dana*, 172. So in the case of *Jackson v. Burns*, Chief Justice Tilghman declared that it was not compatible with the Constitution of Pennsylvania, that a man cannot divest himself of his allegiance. 3 *Bin.*, 85; and the same principle seems to be admitted in the case of *Fish v. Stoughton*, where it was decided that a naturalized citizen must change his domicil, as well as take an oath of allegiance to a foreign government, to render himself an alien. 2 *Johnson's cases*, 407. Also in the case of *Santissimad Trinidad*, 7 *Wheaton*, 348.

Jefferson seems to have fully recognized the right of self-expatriation. As early as 1779, he prepared an act which passed the Virginia Legislature, in which it is denominated the "natural right of all men." See *Jefferson's Works*, vol. i., p. 80—*Autobiography*. It provided as follows :

"And, in order to preserve to the citizens of this Commonwealth, that natural right which all men have of relinquishing the country in which birth or other accident may have thrown them, and seeking subsistence and happiness wheresoever they may be able or hope to find them; and to declare unequivocally what circumstances shall be deemed evidence of an intention in any citizen to exercise that right: it is enacted and declared, that whosoever any citizen of this Commonwealth shall, by word of mouth, in the presence of the court of the county wherein he resides, or of the general court, or by deed in writing under his hand and seal, executed in the presence of three witnesses, and by them proved, in either of the said courts, openly declare to the same court that he relinquishes the character of the citizens, and shall depart the Commonwealth, such person shall be considered as having exercised his natural right of expatriating himself and shall be deemed no citizen of this Commonwealth from the time of his departure." *Hennin's Statute at Large*, vol. x., p. 129.

While Secretary of State under the administration of Washington, Mr. Jefferson, in communicating the conduct of Mr. Genet, the French Minister, to Gouverneur Morris, United States Minister at Paris, holds this language on the subject of expatriation :

"It has been pretended, indeed, that the engagement of a citizen in an enterprise of this nature was a divestment of the character of citizen, and a transfer of jurisdiction over him to another sovereign. Our citizens are certainly free to divest themselves of that character by immigration, and other acts manifesting their intention, and may then become the subjects of another power, and free to do whatever the subjects of that power may do. But the laws do not admit that the bare commission of a crime amounts of itself to a divestment of the character of citizen, and withdraws the cri-

minimal from their coercion. They would never prescribe an illegal act among the legal modes by which a citizen might disfranchise himself; nor render treason, for instance, innocent, by giving it the force of a dissolution of the obligations of the criminal to his country. Accordingly, in the case of *Henfield*, a citizen of these States, charged with having engaged, in the port of Charleston, in an enterprise against nations at peace with us, and with having joined in the actual commission of hostilities, the Attorney General of the United States, in an official opinion, declared that the act with which he was charged was punishable by law. The same thing has been unanimously declared by two of the Circuit courts of the United States, as you will see in the charges of Chief Justice Jay, delivered at Richmond, and Judge Wilson, delivered at Philadelphia, both of which are herewith sent." See *American State Papers*, vol. i., p. 169.

So Edmund Randolph, who succeeded Mr. Jefferson in the State Department, in reply to a communication of Mr. Fauchet, the French Minister; expressed himself thus :

"I cannot doubt that Captain Talbot has taken an oath to the French republic ; and, at the same time, I acknowledge my belief that no law of any of the States prohibits expatriation. But it is obvious that, to prevent frauds, some rules and ceremonies are necessary for its government. It then becomes a question, which is also an affair of the judiciary, whether those rules and ceremonies have been complied with. Should he prove to be a French citizen, he ought and will be acquitted. Should he prove an American citizen, he will be amenable to the laws." See *American State Papers*, vol. i.

A case presenting the question, how far a naturalized citizen of the United States, on his return to the country of his origin, could claim the interposition of the American Legation to protect him against the performance of the duties imposed on him as a native subject, by the sovereign whose allegiance he had renounced, occurred in 1840, during Mr. Wheaton's residence at Berlin. To the application of a naturalized citizen of the United States, who had been required to perform military duty in Prussia, of which he was a native, he replied : "Had you remained in the United States, or visited any other foreign country (except Prussia) on your lawful business, you would have been protected by the American authorities at home and abroad, in the enjoyment of all your rights and privileges as a naturalized citizen of the United States. But having returned to the country of your birth, your *native domicil and national character revert* (so long as you remain in the Prussian dominions), and you are bound in all respects to obey the laws, exactly as if you had never immigrated." *Wheaton's International Law*.

Mr. Marcy, in his reply to Chevalier Hulsemann, the Austrian Minister's demand of the U. S. Government to disavow the acts of the American agents in the Kosta affair, and claim for satisfaction, says :—

There is great diversity and much confusion of opinion as to the nature and obligations of allegiance. By some it is held to be an indestructible political tie, and though resulting from the mere accident of birth, yet forever binding the subject to the sovereign ; by others it is considered a political connection in the nature of a civil contract, dissol-

able by mutual consent, but not so at the option of either party. The sounder and more prevalent doctrine, however, is, that the citizen or subject, having faithfully performed the past and present duties resulting from his relation to the sovereign power, may at any time release himself from the obligation of allegiance, freely quit the land of his birth and adoption, seek through all countries a home, and select any where that which offers him the fairest prospect of happiness for himself and his posterity. When the sovereign power, wheresoever it may be placed, does not answer the ends for which it is bestowed, when it is not exerted for the general welfare of the people, or has become oppressive to individuals, this right to withdraw rests on as firm a basis, and is similar in principle to the right which legitimates resistance to tyranny.

The conflicting laws on the subject of allegiance are of a municipal character, and have no controlling operation beyond the territorial limits of the countries, enacting them. All uncertainty as well as confusion on this subject is avoided by giving due consideration to the fact, that the parties to the question now under consideration are two independent nations, and that neither has the right to appeal to its own municipal laws for the rules to settle the matter in dispute, which occurred within the jurisdiction of a third independent power.

Neither Austrian decrees nor American laws can be properly invoked for aid or direction in this case, but international law furnishes the rules for a correct decision, and by the light from this source shed upon the transaction at Smyrna are its true features to be discerned.

But the protection which this country affords to naturalized citizens or those who are clothed with its nationality, does not extend to defend them against the authorities of their own country, in cases of their voluntary return to it. In a letter of Secretary Marcy to Mr. Jackson, Chargé d'Affaires at Vienna, on the 10th of January, 1854, that gentleman says:—

“I have carefully examined your despatches relating to the case of Simon Towsig, and regret to find that it is one which will not authorize a more effective interference than that which you have already made in his behalf. It is true, he left this country with a passport issued from this department; but as he was neither a native born nor naturalized citizen, he was not entitled to it.” See *Wheaton's International Law*, p. 136.

An absence from one's country with intention to return, cannot be construed to be expatriation, nor even an avowed intent of expatriation, and renunciation of allegiance, unless one become a subject of a foreign State. 3 *Dallas*, 133. Nor where one sails from his country for iniquitous purposes. It cannot be asserted to cover fraud, or to justify a crime. *Ibid.*

## CHAPTER XVI.

## NATURALIZATION LAW OF 1790.

AN examination of the history of Congressional legislation, on the subject of the naturalization laws, must satisfy every one that the statesmen of the Revolution did not entertain the idea that aliens had an *absolute right* to participate in the highest prerogatives of the government, but acted upon the subject as a matter of expediency, and treated it as a privilege conferred. Their action was characterized by great deliberation and caution; and, in this respect, their successors in Congress, until 1824, seem to have emulated their example. From the passage of the first act, in 1790, down to 1824, there has been a uniform and constant advance, in the demands of the laws passed by Congress on the subject, upon those on whom they authorized the privilege of citizenship to be conferred. The same cannot, however, be said, with equal truth, of the legislation since 1824.

During the consideration of the bill to establish a uniform rule of naturalization, in 1790, there was a long and animated discussion in the House of Representatives, in which the views of most of the leading members were elicited and made known on the subject, as will be seen by reference to the published *Annals of Congress*, vol. i., 1146 to 1165. The discussion arose on a motion made by Thomas Tudor Tucker, of South Carolina, to permit aliens to hold lands without having resided any definite period in the country, though he accompanied his motion with the declaration, that "he had no objection to extending the term, entitling them to hold an office under government, to three years." At a subsequent period of the debate, he again took occasion to declare that he "had no object in making his motion, but to enable the people to hold lands, who came from abroad to settle in the United States;" and he went on to express his views, as to residence being made a qualification for admission to citizenship, as follows:

"As to the privilege of being elected to office, he was of opinion, the term of three or four years was a term sufficiently short to acquire it in; it was a much easier method of obtaining citizenship, than was practiced by other nations: neither would he object to any precaution being introduced into the bill, that had a tendency to prevent the admission of bad men; if such precaution could be devised, consistent with their constitutional power, and could be carried into safe and easy execution."

Thomas Hartley, of Pennsylvania, said:

"He had no doubt of the policy of admitting aliens to the right of citizenship; but



he thought some security for their fidelity and allegiance was requisite besides the bare oath; that is, he thought an actual residence of such a length of time as would give a man an opportunity of esteeming the government from knowing its intrinsic value, was essentially necessary to assure us of a man's becoming a good citizen. The practice of almost every State in the Union countenanced a regulation of this nature; and perhaps it was owing to a wish of this kind that the States had consented to give this power to the General Government. The terms of citizenship are made too cheap in some parts of the Union; to say that a man shall be admitted to all the privileges of a citizen, without any residence at all, is what can hardly be expected."

Roger Sherman, of Connecticut, who was one of the framers of the Federal Constitution, said :

"He presumed it was intended by the Convention, who framed the Constitution, that Congress should have the power of naturalization, in order to prevent particular States receiving citizens, and forcing them upon others who would not have received them in any other manner. It was therefore meant to guard against an improper mode of naturalization, rather than foreigners should be received upon easier terms than those adopted by the several States."

James Madison, of Virginia, also one of the framers of the Constitution, and who was foremost among those in favor of liberal legislation for citizens of foreign birth, frankly said, "when we are considering the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses." He concluded his remarks as follows :

"I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but such as would be a real addition to the wealth or strength of the United States. It may be a question of some nicety, how far we can make our law to admit an alien to the right of citizenship, step by step; but there is no doubt we may, and ought to require residence as an essential."

James Jackson, of Georgia, was not only in favor of a long residence, but anxious to guard against the admission of improper persons. He said :

"He conceived the present subject to be of high importance to the respectability and character of the American name; the veneration he had for, and the attachment he had to this country, made him extremely anxious to preserve its good fame from injury. He hoped to see the title of a citizen of America as highly venerated and respected as a citizen of old Rome. I am clearly of opinion, that rather than have the common class of vagrants, paupers, and other outcasts of Europe, that we had better be as we are, and trust to the natural increase of our population for inhabitants. If the motion made by the gentleman from South Carolina should obtain, such people will find an easy admission indeed to the rights of citizenship; much too easy for the interests of the people of America. Nay, sir, the terms required by the bill on the table are in my mind too easy. I think before a man is admitted to enjoy the high and inestimable privilege of a citizen of America, that something more than a mere residence among us is necessary."

I think he ought to pass some time in a state of probation, and at the end of the term be able to bring testimonials of a proper and decent behavior; no man who would be a credit to the community could think such terms difficult or indelicate; if bad men should be dissatisfied on this account, and should decline to immigrate, the regulation will have a beneficial effect; for we had better keep such out of the country than admit them into it. I conceive, sir, that an amendment of this kind would be reasonable and proper; all the difficulty will be to determine how a proper certificate of good behavior should be obtained. I think it might be done by vesting the power in the Grand Jury or District courts to determine on the character of the man, as they should find it."

Theodore Sedgwick, of Massachusetts, said :

"He was against the indiscriminate admission of foreigners to the highest rights of human nature, upon terms so incompetent to secure the society from being overrun with the outcasts of Europe; besides, the policy of settling the vacant territory by immigration is of a doubtful nature. He believed in the United States the human species might be multiplied by a more eligible and convenient mode, than what seemed to be contemplated by the motion now before the committee. He was well satisfied for himself, that there existed no absolute necessity of peopling it in this way; and if there was no absolute necessity, he thought Congress might use their discretion, and admit none but reputable and worthy citizens—such only were fit for the society into which they were blended. The citizens of America preferred this country because it is to be preferred; the like principle he wished might be held by every man who came from Europe to reside here; but there were at least some grounds to fear to the contrary; their sensations impregnated with prejudices of education acquired under monarchical and aristocratical governments, may deprive them of that wish for pure republicanism, which is necessary in order to taste its beneficence with that magnitude which we feel on the occasion. Some kind of probation, as it has been termed, is absolutely requisite, to enable them to feel and be sensible of the blessing. Without that probation, he should be sorry to see them exercise a right which we have gloriously struggled to attain."

Michael J. Stone, of Maryland, expressed his views as follows :

"I would let the term of residence be long enough to accomplish two objects, before I would consent to admit a foreigner to have any thing to do with the politics of this country. First, that he should have an opportunity of knowing the circumstances of our government, and, in consequence thereof, shall have admitted the truth of the principles we hold. Second, that he should have acquired a taste for this government, and in order that both things may take place, in such a way as to make him worthy of admission into our society, I think a term of four or seven years ought to be required. A foreigner, who comes here, is not desirous of interfering immediately with our politics; nor is it proper that he should. His immigration is governed by a different principle; he is desirous of obtaining and holding property. I should have no objection to his doing this from the first moment he sets his foot on shore in America; but it appears to me that we ought to be cautious how we admit foreigners to the other privileges of citizenship, and that for a reason not yet mentioned; perhaps it may allude to the next generation more than to this: the present inhabitants were most of them here when engaged in a long and hazardous war. They have been active in rearing up the present government, and feel perhaps a laudable vanity in having effected what its most sanguine friends hardly dared to contemplate. There is a danger of these people losing

what they so greatly esteem ; but the admission of foreigners to all places of government may tincture the system with the dregs of their former habits, and corrupt what we believe the most pure of human institutions."

George Clymer, of Pennsylvania, said :

" In States, however, newly formed, it might be useful to fix a short period ; but in the old States, fully peopled, he did not think the longest which had been mentioned too great."

Peter Sylvester, of New York, said :

" He thought it neither for the honor nor interest of the United States to admit aliens to the rights of citizenship indiscriminately ; he was clearly in favor of a term of probation, and that their good behavior should be vouched for. He suggested the idea of lodging the power of admitting foreigners to be naturalized in the District Judges."

The bill was finally passed without a call of the yeas and nays, and does not seem to have had any opposition or discussion in the Senate. It was approved March 26, 1790, required *two* years' residence as a qualification for citizenship, and was embraced in one section, which was as follows :

" That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof, on application to any common law court of record in any one of the States wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court that he is a person of good character, and taking the oath or affirmation prescribed by law, to support the Constitution of the United States, which oath or affirmation such court shall administer ; and the clerk of such court shall record such application, and the proceedings thereon ; and thereupon such person shall be considered as a citizen of the United States. And the children of such person so naturalized, dwelling within the United States, being under the age of twenty-one years, at the time of such naturalization, shall also be considered as citizens of the United States. And the children of citizens of the United States, that may be born beyond sea, or out of the limits of the United States, shall be considered as natural born citizens. *Provided*, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States. *Provided also*, That no person heretofore proscribed by any State shall be admitted a citizen aforesaid, except by an act of the Legislature of the State in which such person was proscribed."

## CHAPTER XVII.

## NATURALIZATION LAW OF 1795.

THE consideration of the bill enacted into a law in 1795 again elicited a warm discussion in the House of Representatives, as will be seen by reference to the published *Annals of Congress of 1793-95*, page 1004 to 1133. Samuel Dexter, Jr., of Massachusetts, led off in the debate, "expressing his disapprobation of the facility by which, under the existing law, aliens may acquire citizenship," and moved that the term of *two years'* residence be stricken out and a blank left, "to be filled up after more mature consideration," which was agreed to. He also proposed an amendment in reference to the mercantile foreigners who might wish to acquire citizenship.

John Page, of Virginia, though, coinciding with the views of Mr. Madison, in regard to the naturalization of foreign citizens, expressed himself as follows:—

"He approved the design of the mover, because he thought nothing more desirable than to see good order, public virtue, and true morality, constituting the character of citizens of the United States; for without morality, and indeed a general sense of religion, a Republican Government cannot flourish, nay, cannot long exist; since without these, disorders will arise which the strong arm of powerful Government can alone correct or retrieve."

Mr. Dexter subsequently moved another amendment, that "no alien should be admitted to the rights of citizenship, but on the oath of two credible witnesses, that in their opinion he was of good moral character and attached to the welfare of this country." This motion was seconded by Theodore Sedgwick, of Massachusetts, who spoke as follows:—

"America," he said, "if her political institutions should on experience be found to be wisely adjusted, and she shall improve her natural advantages, had opened to her view a more rich and glorious prospect than ever was presented to man. She has chosen for herself a government which left to the citizen as great a portion of freedom as was consistent with a social compact. All believed the preservation of this government, in its purity, indispensable to the continuance of our happiness. The foundation on which it rested was general intelligence and public virtue; in other words, wisdom to discern, and patriotism to pursue the general good. He had pride, and he gloried in it, in believing his countrymen more wise and virtuous than any other people on earth; hence he believed them better qualified to administer and to support a Republican Government. This character of Americans was the result of early education, aided indeed by the discipline of the Revolution.

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Much information (he said) might be obtained by the experience of others, if, in despite of it, we were not determined to be guided only by a visionary theory. The ancient Republics of Greece and Rome (said he), see with what jealousy they guarded the rights of citizenship against adulteration by foreign mixture. The Swiss nation (he said), in modern times, had not been less jealous on the same subject. Indeed, no example could be found, in the history of man, to authorize the experiment which had been made by the United States. It seemed to have been adopted by universal practice as a maxim, that the republican character was no way to be formed but by early education. In some instances, to form this character, those propensities which are generally considered as almost irresistible, were appeased and subdued. And shall we (he asked) alone adopt the rash theory, that the subjects of all governments, despotic, monarchical, and aristocratical, are, as soon as they set foot on American ground, qualified to participate in administering the sovereignty of our country? Shall we hold the benefits of American citizenship so cheap as to invite, nay, almost bribe, the discontented, the ambitious, and the avaricious of every country to accept them? We had (he said) on this subject, not only example, but warning. Will gentlemen (said Mr. S.) recollect the rage of ages, which existed in the country from which we came, between the Saxon, Danish, and Norman immigrants and the natives of the country? The cruelties, the oppressions, the assassinations, in a word, the miseries to which this gave birth? Perhaps it might be said that in this instance the immigrants were hostile invaders; but the same events took place in the decline of the Roman empire, between the immigrants who were invited to occupy the vacant frontiers and the ancient inhabitants; although the former ought to have been united to the latter by every principle of affection and gratitude. By these and almost an infinity of other instances, it would not be rash to conclude, that, by the undeviating principles of human nature, whenever the inhabitants of one country should be permitted to settle in another by national affections, a union would be formed unfriendly not only to ancient inhabitants, but also to social order. Our own experience was not, he believed, in opposition to the general observation. Although this reasoning was to his mind conclusive against a general and indiscriminate admission of aliens to the right of citizenship, yet he did not wish it should go to a complete exclusion.

William Vans Murray, of Maryland, declared :

"He was quite indifferent if not fifty immigrants came into this country in a year's time. It would be unjust to hinder them, but impolitic to encourage them. He was afraid that, coming from a quarter of the world so full of disorder and corruption, they might contaminate the purity and simplicity of the American character."

Ezekiel Gilbert, of New York, said :

"The term of residence, before admitting aliens, ought to be very much longer than mentioned in the bill."

Theodore Sedgwick, of Massachusetts, said :

"He agreed to the idea of Mr. Gilbert. He wished that a method could be found of permitting aliens to possess and transmit property, without, at the same time, giving them a right to vote."

James Madison, of Virginia, remarked as follows :

"There was no class of immigrants from whom so much was to be apprehended, as

those who should obtain property in shipping. Much greater mischief was to be feared from them than from any influence in votes at an election. If he were disposed to make any distinction of one class of immigrants more than another, as to the length of time before they should be admitted citizens, it would be as to the mercantile people—as those persons may, by possessing themselves of American shipping and seamen, be enabled clandestinely to favor such particular nations in the way of trade as they may think proper.”

For carrying into more complete effect the power given by the Constitution, this bill finally passed the House, met with no opposition in the Senate, and was approved January 29, 1795. By it a residence of *five* years was required, and some other important conditions to the admission of citizenship imposed. The main provisions of it were as follows :

That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise. First. He shall have declared, on oath or affirmation, before the Supreme, Superior, District, or Circuit court of some one of the States, or of the Territories Northwest or South of the river Ohio, or a Circuit or District court of the United States, three years at least before his admission, that it was, *bona fide*, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty, whereof such alien may at that time be a citizen or subject. Secondly. He shall, at the time of his application to be admitted, declare, on oath or affirmation, before some one of the courts aforesaid, that he has resided within the United States five years at least, and within the State or Territory where such court is at the time held, one year at least ; that he will support the Constitution of the United States ; and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty whatever, and particularly by name, the prince, potentate, State or sovereignty, whereof he was before a citizen or subject ; which proceedings shall be recorded by the clerk of the court. Thirdly. The court admitting such alien shall be satisfied that he has resided within the limits and under the jurisdiction of the United States, five years ; and it shall further appear to their satisfaction that, during that time, he has behaved as a man of a good moral character, attached to the principles of the Constitution of the United States, and well-disposed to the good order and happiness of the same. Fourthly. In case the alien applying to be admitted to citizenship shall have borne any hereditary title, or been of any of the orders of nobility, in the Kingdom or State from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility, in the court to which his application shall be made ; which renunciation shall be recorded in the said court.

Sec. 2. *Provided always, and be it further enacted*, That any alien now residing within the limits and under the jurisdiction of the United States, may be admitted to become a citizen, on his declaring, on oath or affirmation, in some one of the courts aforesaid, that he has resided two years, at least, within and under the jurisdiction of the same, and one year, at least, within the State or Territory where such court is at the time held ; that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, State or sovereignty whatever, and particularly by name, the prince, potentate, State, or sovereignty, whereof he was before a citizen or subject ; and

moreover, on its appearing to the satisfaction of the court, that, during the said term of two years, he has behaved as a man of good moral character; attached to the Constitution of the United States, and well-disposed to the good order and happiness of the same; and when the alien applying for admission to citizenship shall have borne any hereditary title, or been of any of the orders of nobility in the Kingdom or State from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility, before he shall be entitled to such admission; all of which proceedings, required in this proviso to be performed in the court, shall be recorded by the clerk thereof.

*Sec. 3. And be it further enacted*, That the children of persons duly naturalized, dwelling within the United States, and being under the age of twenty-one years, at the time of such naturalization, and the children of citizens of the United States born out of the limits and jurisdiction of the United States, shall be considered as citizens of the United States: *Provided*, That the right of citizenship shall not descend on persons whose fathers have never been resident of the United States: *Provided also*, That no person heretofore proscribed by any State, or who has been legally convicted of having joined the army of Great Britain, during the late war, shall be admitted as aforesaid, without the consent of the Legislature of the State in which such person was proscribed.

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## CHAPTER. XVIII.

### NATURALIZATION LAW OF 1798.

On the 17th of April, 1798, Joshua Coit, of Connecticut, said, in the House of Representatives, that "from the present situation of things, he apprehended some alterations would be necessary in the present law for the naturalization of foreigners;" and he therefore proposed that "the committee appointed for the protection of commerce and the defence of our country, be directed to inquire and report whether it be not expedient to suspend or to amend the act establishing a uniform rule of naturalization." As will be found by reference to the *Annals of Congress of 1797-99, vol. ii, p. 1454*, this resolution was unanimously adopted a day or two afterwards, and of which the following account is given:

Mr. Sitgreaves wished the committee to have the whole subject before them, in order that they might report a new system respecting naturalization of foreigners, if they should think it necessary. He thought our present situation called for regulations on this head; since, at a time when we may very shortly be involved in war, there are an immense number of French citizens in our country. He could not say what might be the proper measures to be taken with respect to those persons; they should be such as the interests of the country require; these might be to place them under certain regulations, or by sending them out of the country. He moved to add to the resolution, therefore, the following words, viz.: "And further to consider and report upon the expe-

diency of establishing by law, regulations respecting aliens arriving or residing within the United States." Some conversation took place as to the propriety of letting this resolution lie for the present, on account of some constitutional objections; but Mr. Davis, of Kentucky, stating the necessity of some regulation of this kind, from a fact within his own knowledge of a Frenchman residing in that State, who, some time ago, had issued a number of commissions for a certain expedition, which commissions are yet in existence, and that this person constantly employs himself in alienating the affections of the people of that State from their government; the resolution was immediately and unanimously adopted.

The Committee to which the resolution was referred, made a report thereon—accompanied by the following resolutions, the two first of which, after some discussion, were adopted, as will be seen by referring to the *Annals of Congress of 1797-99, vol. ii., p. 1566* :

*Resolved*, That provision ought to be made by law, to prolong the term of residence within the United States, which shall be proved by an alien before he shall be admitted to become a citizen of the United States, or of any State.

*Resolved*, That provision be made, by law, for a report and registry of all aliens who shall continue residents, or shall hereafter arrive within the United States, with suitable descriptions of their places of birth and citizenship, and places of arrival and residence within the United States.

*Resolved*, That provision be made by law for the apprehending, securing, or removal, as the case may require, of all aliens, being males, of the age of fourteen years and upwards, who shall continue to reside or shall arrive within the United States, being native citizens, or subjects of any country the government whereof shall declare war against the United States, or shall threaten, attempt, or perpetrate any invasion or predatory incursions upon their territory; as soon as may be after the President of the United States shall make proclamation of such event. Providing in all cases where such aliens are not chargeable with actual hostility, that the period settled by any treaty with such hostile nation, or other reasonable period, according to the usages of nations, and the duties of humanity, shall be allowed for the departure of such aliens, with all their effects, from the territory of the United States; and excepting all cases of such aliens to whom passports or licenses of residence may be granted consistently with the public safety.

Pending the consideration of these resolutions, an animated debate was had, as appears by the *Annals of Congress of 1797-99, vol. ii., 1568 to '80*: Mr. Harper, of Maryland, moved to amend the first resolution as follows: "That provision ought to be made by law for preventing any person becoming entitled to the rights of a citizen of the United States, except by birth." This was declared would be a substitute to the resolution, and therefore not in order, whereupon Mr. Otis, of Massachusetts, proposed to add, "and that no alien born, who is not at present a citizen of the United States, shall hereafter be capable of holding any office of honor, trust, or profit, under the United States;" to which Mr. Harper moved to add, "or of voting at the election of any member of the Legislature of the United States, or of any State;" which he subsequently withdrew, until he had an opportunity to examine the Constitution and



had satisfied his mind that it was not in violation of it. At a subsequent stage of the debate, Mr. Otis also withdrew his amendment. During the discussion, many of the members, however, expressed themselves in favor of a much longer period of residence to acquire citizenship than was then required.

Robert Goodloe Harper, of Maryland, who was a member of the Convention which formed the Federal Constitution, spoke as follows :

He believed that it was high time we should recover from the mistake which this country fell into when it first began to form its constitution, of admitting foreigners to citizenship. This mistake, he believed, had been productive of very great evils to this country, and, unless corrected, he was apprehensive those evils would greatly increase. He believed the time was now come when it would be proper to declare that nothing but birth should entitle a man to citizenship in this country. He thought this was a proper season for making the declaration. He believed the United States had experience enough to cure them of the folly of believing that the strength and happiness of the country would be promoted by admitting to the rights of citizenship all the congregations of people who resort to these shores from every part of the world. Under these impressions, which, as he supposed they would have the same force upon others as upon himself, he should not detain the Committee by dilating upon, he proposed to amend the resolution by adding to it the following words, viz. : " that provision ought to be made by law for preventing any person becoming entitled to the rights of a citizen of the United States, except by birth."

Mr. Harper said he was for giving foreigners every facility of acquiring property, of holding this property, of raising their families, and of transferring their property to their families. He was willing they should form citizens for us ; but as to the rights of citizenship, he was not willing they should be enjoyed, except by persons born in this country. He did not think even this was desirable by the persons themselves. Why, he asked, did foreigners seek a residence in this country ? He supposed it was either to better their condition or to live under a government better and more free than the one they had left. But was it necessary these persons should at once become entitled to take a part in the concerns of our government ? He believed it was by no means necessary, either to their happiness or prosperity, and he was sure it would not tend to the happiness of this country. If the native citizens are not indeed adequate to the performance of the duties of government, it might be expedient to invite legislators or voters from other countries to do that business for which they themselves are not qualified. But if the people of the country, who owe their birth to it, are adequate to all the duties of the government, he could not see for what reason strangers should be admitted ; strangers who, however acceptable they may be in other respects, could not have the same views and attachments with native citizens. Under this view of the subject, he was convinced it was an essential policy, which lay at the bottom of civil society, that no foreigner should be permitted to take a part in the government. There might have been, Mr. H. acknowledged, individual exceptions, and there may be again, to this general rule, but it was necessary to make regulations general, and he believed the danger arising from admitting foreigners, generally, to citizenship, would be greater than the inconveniences arising from debarring from citizenship the most deserving foreigners. He believed it would have been well for this country, if the principle contained in this amendment had been adopted sooner ; he hoped it would now be adopted.

Harrison Gray Otis, of Massachusetts, said :—

"Gentlemen could certainly read the Constitution for themselves, and draw their own conclusions from it. He himself had not the smallest doubt as to the constitutionality of restricting aliens in the way proposed. He believed that Congress, having the power to establish an uniform rule of naturalization, could, if they thought proper, make a residence of forty or fifty years necessary before an alien should be entitled to citizenship, which would extend to the whole life of a person, and prove an effectual exclusion. If Congress, then, had a right to exclude foreigners altogether from citizenship, any modification of that right was certainly within their power, and would be an advantage to aliens, for which they ought to be grateful. There would be nothing in this contrary to the Constitution; for it was always acknowledged that where an absolute power may be exercised, a conditional power may also be exercised. What advantage, he asked, was derived to this country from giving aliens eligibility to office? The people of this country were certainly equal to the legislation and administration of their own government, comprising all the aliens who are now become citizens. He had no doubt but many aliens would become very valuable acquisitions to this country; but he had no idea of admitting them into the government. He did not wish to open the door to the intrigues of other countries, whose chief attention is paid to the obtaining of influence in the internal concerns of the countries over which they wish to have dominion. And he could see it possible that persons might be furnished by such a country to come here and buy lands, and by that means, in time, get into the government. Great Britain, he said, was very careful of the avenues which led to her liberty in this respect. Aliens were there excluded from holding all places of honor, profit, or trust. The situation of America heretofore was different from what it is at present. It had not only been thought good policy, in times past, to encourage foreigners to come to this country, but also to admit them into the Legislature, and other important offices. But now, said he, America is growing into a nation of importance, and it would be an object with foreign nations to gain an influence in our councils; and, before any such attempt was made, it was proper to make provision against it; for if the time ever should arrive when a number of persons of this description had found their way into the Legislature, a motion of this kind would of course be very odious. If, however, gentlemen were of a different opinion, and think the object would be better accomplished by extending the residence of aliens, he should not object to that course being taken, though he thought the one he proposed perfectly within the power of the House."

Samuel Sitgreaves, of Pennsylvania, said :—

"He wished that, in attaining an object in which all seemed to concur, they might avoid any constitutional embarrassment; and this, it was allowed, might be done by extending the time of residence of aliens so far as to prevent them from ever becoming citizens, by which means persons who could not be considered as having a common interest with the citizens of the country, would be effectually excluded from holding offices in the government.

"The great object was to prevent such persons from being elected into either branch of the Legislature, or into the offices of President or Vice President; offices in which the sovereignty of the country is materially concerned, and in which, of course, foreign influence might prove most mischievous. He hoped, therefore, that the present motion would be withdrawn, and that the same object would be attained in the way he had mentioned."

On the 15th of May, 1798, the Committee to which the resolution of instructions was referred, reported a supplementary bill to the naturalization law of 1795, which, after various amendments; and considerable discussion, passed the House of Representatives, without a call of the yeas and nays, on the 22d of the same month. It does not appear to have had any opposition or discussion in the Senate, and was also agreed to in that body without a call of the yeas and nays. The motion to require *fourteen years'* residence was carried by but one of a majority in the House of Representatives, the vote being 41 to 40.

Joseph McDowell, of North Carolina, said:—

"He hoped this blank would not be filled with so long a time. The residence now required from foreigners before they can become citizens is five years. He would not object to an increase of the length of this term to seven years; or, if the committee thought nine better, he would not object to it. He did not wish to discourage an immigration to this country of respectable foreigners, by barring them from the rights of citizenship. The policy of this country had always been different, and he did not wish entirely to change it."

William Craik, of Maryland, said:—

"He was disposed to go much farther than is proposed in this bill, in restricting aliens from becoming citizens of this country. He should have no objection to say, that no foreigner coming into this country after this time, shall ever become a citizen."

James A. Bayard, of Delaware, said:

"Aliens cannot be considered as members of the society of the United States; our laws are passed on the ground of our policy, and whatever is granted to aliens is a mere matter of favor; and, if it is taken away, they have no right to complain."

The supplement thus discussed was approved June 18, 1798; required a residence of *fourteen years* to be admitted to citizenship, and imposed various other conditions and restrictions. The following is a copy of it:

That no alien shall be admitted to become a citizen of the United States, or of any State, unless in the manner prescribed by the act entitled "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject;" he shall have declared his intention to become a citizen of the United States five years, at least, before his admission, and shall, at the time of his application to be admitted, declare and prove, to the satisfaction of the court having jurisdiction in the case, that he has resided within the United States fourteen years, at least, and within the State or Territory where or for which such court is at the time held, five years, at least, besides conforming to the other declarations, renunciations, and proofs, by the said act required, any thing therein to the contrary thereof notwithstanding: *Provided*, That any alien, who was residing within the limits, and under the jurisdiction of the United States, before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may, within one year after the passage of this act; and any alien who shall have made the declaration of his intention to become a citizen of the United States, in conformity to the provisions of the act entitled "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject," may, within four years

after having made the declaration aforesaid, be admitted to become a citizen, in the manner prescribed by the said act, upon his making proof that he has resided five years, at least, within the limits, and under the jurisdiction of the United States: *And provided also*, That no alien, who shall be a native born citizen, denizen, or subject of any nation or State with whom the United States shall be at war, at the time of his application, shall be then admitted to become a citizen of the United States.

Sec. 2. *And be it further enacted*, That it shall be the duty of the clerk, or other recording officer, of the court before whom a declaration has been, or shall be made, by any alien, of his intention to become a citizen of the United States, to certify and transmit to the office of the Secretary of State of the United States, to be there filed and recorded, an abstract of such declaration, in which, when hereafter made, shall be a suitable description of the name, age, nation, residence, and occupation, for the time being, of the alien; such certificate to be made, in all cases, where the declaration has been or shall be made, before the passing of this act, within three months thereafter; and in all other cases, within two months after the declaration shall be received by the court; and, in all cases hereafter arising, there shall be paid to the clerk, or recording officer as aforesaid, to defray the expense of such abstract and certificate, a fee of two dollars; and the clerk or officer to whom such fee shall be paid tendered, who shall refuse or neglect to make and certify an abstract, as aforesaid, shall forfeit and pay the sum of ten dollars.

Sec. 3. *And be it further enacted*, That in all cases of naturalization heretofore permitted, or which shall be permitted, under the laws of the United States, a certificate shall be made to, and filed in the office of the Secretary of State, containing a copy of the record respecting the alien, and the decree or order of admission by the court before whom the proceedings thereto have been, or shall be had. And it shall be the duty of the clerk, or other recording officer of such court, to make and transmit such certificate, in all cases which have already occurred within three months after the passing of this act; and, in all future cases, within two months from and after the naturalization of an alien, shall be granted by any court competent thereto: And, in all future cases, there shall be paid to such clerk, or recording officer, the sum of two dollars, as a fee for such certificate, before the naturalization prayed for shall be allowed: And the clerk or recording officer, whose duty it shall be to make and transmit the certificate aforesaid, who shall be convicted of a willful neglect therein, shall forfeit and pay the sum of ten dollars for each and every offence.

Sec. 4. *And be it further enacted*, That all white persons, aliens, (accredited foreign ministers, consuls, or agents, their families and domestics excepted) who, after the passing of this act, shall continue to reside in any port or place within the territory of the United States, shall be reported, if free and of the age of twenty-one years, by themselves, or being under the age of twenty-one years, or holden in service by their parent, guardian, master, or mistress, in whose care they shall be, to the clerk of the District court of the district, if living within ten miles of the port or place in which their residence or arrival shall be, and otherwise, to the collector of such port or place or some officer or other person there, or nearest thereto, who shall be authorized by the President of the United States, to register aliens: And a report, as aforesaid, shall be made in all cases of residence, within six months from and after the passing of this act, and, in all after cases, within forty-eight hours after the first arrival or coming into the territory of the United States; and shall ascertain the sex, place of birth, age, nation, place of allegiance or citizenship, condition or occupation, and place of actual or intended residence within the United States, of the alien or aliens reported, and by whom

report is made. And it shall be the duty of the clerk, or other officer or person authorized, who shall receive such report, to record the same in a book to be kept for that purpose, and to grant to the person making the report, and to each individual concerned therein, whenever required, a certificate of such report and registry; and whenever such report and registry shall be made to and by any officer or person authorized as aforesaid, other than the clerk of the District court, it shall be the duty of such officer, or other person, to certify and transmit, within three months thereafter, a transcript of such registry to the said clerk of the District court of the district in which the same shall happen, who shall file the same in a book, to be kept by him for that purpose. And the clerk, officer, or other person authorized to register aliens, shall be entitled to receive, for each report and registry, of one individual or family of individuals, the sum of fifty cents, and for every certificate of a report and registry the sum of fifty cents, to be paid by the person making or requiring the same, respectively. And the clerk of the District court, to whom a return of the registry of any alien shall have been made, as aforesaid, and the successor of such clerk, and of any other officer or person authorized to register aliens, who shall hold any former registry, shall and may grant certificates thereof, to the same effect as the original register might do. And the clerk of each District court shall, during one year from the passing of this act, make monthly returns to the Department of State, of all aliens registered and returned, as aforesaid, in his office.

Sec. 5. *And be it further enacted*, That every alien, who shall continue to reside, or who shall arrive, as aforesaid, of whom a report is required as aforesaid, who shall refuse or neglect to make such report, and to receive a certificate thereof, shall forfeit and pay the sum of two dollars; and any justice of the peace, or other civil magistrate, who has authority to require surety of the peace, shall and may, on complaint made to him thereof, cause such alien to be brought before him, there to give surety of the peace and good behavior during his residence within the United States, or for such term as the justice or other magistrate shall deem reasonable, and until a report and registry of such alien shall be made, and a certificate thereof received as aforesaid; and in failure of such surety, such alien shall and may be committed to the common jail, and shall be there held, until the order which the justice or magistrate shall and may reasonably make in the premises, shall be performed, and every person, whether alien or other, having the care of any alien or aliens, under the age of 21 years, or of any white alien holden in service, who shall refuse and neglect to make report thereof, as aforesaid, shall forfeit the sum of two dollars, for each and every minor or servant, monthly, and every month, until a report and registry, and a certificate thereof shall be had, as aforesaid.

Sec. 6. *And be it further enacted*, That in respect to every alien, who shall come to reside within the United States after the passing of this act, the time of the registry of such alien shall be taken to be the time when the term of residence within the limits and under the jurisdiction of the United States, shall have commenced, in case of an application by such alien, to be admitted a citizen of the United States; and a certificate of such registry shall be required, in proof of the term of residence, by the court to whom such applications shall and may be made.

Sec. 7. *And be it further enacted*, That all and singular the penalties established by this act, shall and may be recovered in the name, and to the use, of any person who will inform and sue for the same, before any judge, justice, or court, having jurisdiction in such case, and to the amount of such penalty, respectively.

## CHAPTER XIX.

## NATURALIZATION LAW OF 1802, AND SUPPLEMENTS.

THOMAS JEFFERSON, though at an earlier period greatly adverse to what was then denominated liberal legislation towards foreigners, was opposed to the act of 1798, and in his first Message to Congress, after his election to the Presidency, referred to the subject as follows, as will appear by a reference to his Message, December, 1801, in the *Annals of Congress of 1801-2*, p. 16 :

I cannot omit recommending a revision of the laws on the subject of naturalization. Considering the ordinary chances of human life, a denial of citizenship under a residence of fourteen years, is a denial to a great proportion of those who ask it, and controls a policy pursued from their first settlement, by many of these States, and still believed of consequence to their prosperity. And shall we refuse to the unhappy fugitives from distress, that hospitality which the savages of the wilderness extended to our fathers in arriving in this land? Shall oppressed humanity find no asylum on this globe? The Constitution, indeed, has wisely provided that, for admission to certain offices of important trust, a residence shall be required sufficient to develop character and design. But might not the general character and capabilities of a citizen be safely communicated to every one manifesting a bona fide purpose of embarking his life and fortunes permanently with us?—with restrictions, perhaps, to guard against the fraudulent usurpation of our flag—an abuse of which brings so much embarrassment and loss on the genuine citizen, and so much danger to the nation of being involved in war, that no endeavor should be spared to detect and suppress it.

In obedience to this recommendation, and in pursuance of a number of petitions presented, at the commencement of the session, from aliens in New York and other places, a committee was appointed on the subject in the House of Representatives; which reported a bill at an early day. This bill seems to have elicited no discussion, its opponents in the House contenting themselves with a call of the yeas and nays, which were : 59 yeas, 27 nays. See *Annals of Congress of 1801-2*, pages 464, 986-88-93, 1132-33-55-57. In the Senate, the bill was amended and finally passed by a vote of 18 yeas to 8 nays. The act thus passed, again reduced the residence required to five years, where it still remains. It was approved April 14, 1802. The first section of the act is a copy of that of 1795, with the following modifications and amendments : that the person applying shall, at the time of his admission, swear or affirm to support the Constitution of the United States ; that the court shall be satisfied that he has resided, not only within the United States five years at least, but within the State or Territory where such court is at the time

held, one year at least; that the oath of the applicant shall in no case be allowed to prove his residence; that no alien who shall be a native citizen, denizen or subject of any country, State or sovereign; with whom the United States shall be at war, at the time of his application, shall be then admitted to citizenship; and also permitting persons residing in the United States between the 29th January, 1795, and the 18th June, 1798, to become citizens; the fourth section relating to children of persons naturalized, the same as that of the third section of the act of 1795; and the second and third sections are as follows:—

That in addition to the directions aforesaid, all free white persons, being aliens, who may arrive in the United States after the passing of this act, shall, in order to become citizens of the United States, make registry, and obtain certificates, in the following manner, to wit: every person desirous of being naturalized shall, if of the age of twenty-one years, make report of himself; or if under the age of twenty-one years, or held in service, shall be reported by his parent, guardian, master or mistress, to the clerk of the District court of the district where such alien or aliens shall arrive, or to some other court of record of the United States, or of either of the territorial districts of the same, or of a particular State; and such report shall ascertain the name, birth-place, age, nation and allegiance of each alien, together with the country whence he or she migrated, and the place of his or her intended settlement; and it shall be the duty of such clerk, on receiving such report, to record the same in his office, and to grant to the person making such report, and to each individual concerned therein, whenever he shall be required, a certificate under his hand and seal of office, of such report and registry; and for receiving and registering each report of an individual or family, he shall receive fifty cents; and for each certificate granted pursuant to this act, to an individual or family, fifty cents; and such certificate shall be exhibited to the court by every alien who may arrive in the United States, after the passing of this act, on his application to be naturalized, as evidence of the time of his arrival within the United States.

*And whereas*, doubts have arisen whether certain courts of record in some of the States, are included within the description of District or Circuit courts:

*Be it further enacted*, That every court of record in any individual State, having common law jurisdiction, and a seal and clerk or prothonotary, shall be considered as a District court within the meaning of this act, and every alien who may have been naturalized in any such court, shall enjoy, from and after the passing of the act, the same rights and privileges, as if he had been naturalized in a District or Circuit court of the United States.

A supplementary act to that of 1802 was passed March 26, 1804, providing for certain aliens to become citizens of the United States, who resided in the country between the 18th of June, 1798, and the 14th of April, 1802; and also for widows and children of aliens who had died after having complied with certain directions of the act of 1802. On the 3d of March, 1813, an act was passed requiring a *continued* residence of five years immediately preceding to the admission of citizenship, which was repealed by an act passed June 26, 1848. By an act of July 30, 1813, persons who had declared their intention of becoming citizens,

according to law, on the 18th June, 1812, were authorized to be admitted. On the 26th March, 1816, another act was passed, as follows :

That the certificate of report and registry, required as evidence of the time of arrival in the United States, according to the second section of the act of the fourteenth of April, one thousand eight hundred and two, entitled "An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on this subject;" and also a certificate from the proper clerk or prothonotary, of the declaration of intention, made before a court of record, and required as the first condition, according to the first section of said act, shall be exhibited by every alien on his application to be admitted a citizen of the United States, in pursuance of said act, who shall have arrived within the limits, and under the jurisdiction of the United States, since the eighteenth day of June, one thousand eight hundred and twelve, and shall each be recited at full length, in the record of the court admitting such alien; otherwise he shall not be deemed to have complied with the conditions requisite for becoming a citizen of the United States, and any pretended admission of an alien, who shall have arrived within the limits and under the jurisdiction of the United States, since the said eighteenth day of June, one thousand eight hundred and twelve, to be a citizen after the promulgation of this act, without such recital of each certificate at full length, shall be of no validity or effect under the act aforesaid. That nothing herein contained shall be construed to exclude from admission to citizenship, any free white person who was residing within the limits and under the jurisdiction of the United States at any time between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the fourteenth day of April, one thousand eight hundred and two, and who, having continued to reside therein without having made any declaration of intention before a court of record as aforesaid, may be entitled to become a citizen of the United States according to the act of the twenty-sixth of March, one thousand eight hundred and four, entitled "An act in addition to an act entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject.'" Whenever any person without a certificate of such declaration of intention, as aforesaid, shall make application to be admitted a citizen of the United States, it shall be proved to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States, before the fourteenth day of April, one thousand eight hundred and two, and has continued to reside within the same, or he shall not be so admitted. And the residence of the applicant within the limits and under the jurisdiction of the United States for at least five years immediately preceding the time of such application, shall be proved by the oath or affirmation of citizens of the United States, which citizens shall be named in the record as witnesses. And such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place or places where the applicant has resided for at least five years, as aforesaid, shall be stated and set forth, together with the names of such citizens in the record of the court admitting the applicant. Otherwise the same shall not entitle him to be considered and deemed a citizen of the United States.

Approved March 22, 1816.

Another act was passed May 26, 1824, as follows :

That any alien, being a free white person and a minor, under the age of twenty-one years, who shall have resided in the United States three years next preceding his arrival at the age of twenty-one, and who shall have continued to reside therein to the time he



may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he shall have resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of the first section of the act to which this is an addition, three years previous to his admission; *Provided*, such alien shall make the declaration required therein at the time of his or her admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for three years next preceding, it has been the *bona fide* intention of such alien to become a citizen of the United States; and shall, in all other respects, comply with the laws in regard to naturalization.

Sec. 2. *And be it further enacted*, That no certificates of citizenship of naturalization, heretofore obtained from any court of record within the United States, shall be deemed invalid, in consequence of an omission to comply with the requisition of the first section of the act entitled "An act relative to evidence in cases of naturalization," passed the twenty-second day of March, one thousand eight hundred and sixteen.

Sec. 3. *And be it further enacted*, That the declaration required by the first condition specified in the first section of the act, to which this is an addition, shall, if the same has been *bona fide* made before the clerk of either of the courts in the said condition named, be as valid as if it had been made before the said courts, respectively.

Sec. 4. *And be it further enacted*, That a declaration by any alien, being a free white person, of his intended application to be admitted a citizen of the United States, made in the manner and form prescribed in the first condition specified in the first section of the act to which this is an addition, two years before his admission, shall be a sufficient compliance with said condition; any thing in the said act, or in any subsequent act, to the contrary notwithstanding.

In 1828, another act was passed, the passage of which was urged by James Buchanan, who said :

The existing laws require, in addition to these provisions, that the alien should produce a certificate that he had gone before a court of record, and registered himself; and this certificate is to be the evidence of the time of his arrival within the United States. The act of the 22d of March, 1816, further requires, that this certificate of registry shall be recited in the certificate of naturalization. What has been the consequence? By a correct construction of these laws, no alien can be naturalized without a registry. This is the only evidence which the court can legally receive of the time of his arrival. In those courts, therefore, in which this practice prevails, if an alien has been ten years in this country, though his residence were notorious during all that time, still, if he has neglected to register himself, he cannot be naturalized until five years after his first application to the court. This neglect is common, nay, almost universal; because aliens do not know the law, and would not, for some time after their arrival, conform to it, even if they did. But this law, like every other unreasonable one, is evaded. It sets up an arbitrary standard of evidence, to defeat the spirit of its own provisions. The consequence is that some courts do, and others do not, carry this part of it into execution. In 1824, Congress yielded this provision so far as to declare, that a certificate of naturalization, theretofore obtained, should be good, notwithstanding it did not recite this registry. The Committee on the Judiciary believed that it would be better at once to dispense with this registry. They thought it would simplify the law. The second section provides for another class of cases. Every alien who has arrived in this country, since the 14th of April, 1802, must exhibit a certificate of the declaration of his inten-

tion to become a citizen, made two years before his application to be naturalized. It was believed by the committee, that, if an alien could establish, by clear and indifferent testimony, that he had arrived in the country previous to the late war, (*viz.*, the 18th June, 1812,) and continued to reside in it ever since, this condition might, in such case, with propriety, be dispensed with. We had reason to believe that there were many persons in the country, particularly Irishmen, who served as soldiers during the late war, who have hitherto neglected to make a declaration of their intention to become citizens; and we thought it right to provide for this class of cases, more especially as such persons must prove, by clear and indifferent testimony, that they have since resided within the United States. It is now nearly sixteen years since the declaration of war.

The act was approved May 24, 1828. It repealed the second section of the act of April 14, 1802, and the first section of the act of 22d March, 1816, and provided further, as follows :

That any alien, being a free white person, who has resided within the limits and under the jurisdiction of the United States, between the fourteenth day of April, one thousand eight hundred and two, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States, without having made any previous declaration of his intention to become a citizen : *Provided*, That whenever any person, without a certificate of such declaration of his intention, shall make application to be admitted a citizen of the United States, it shall be proved to the satisfaction of the court, that the applicant was residing within the limits, and under the jurisdiction of the United States, before the 18th day of June, one thousand eight hundred and twelve, and has continued to reside within the same, or he shall not be so admitted; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, shall be proved by the oath or affirmation of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits, and under the jurisdiction of the United States, when satisfactorily proved, and the place or places where the applicant has resided for at least five years, as aforesaid, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise, the same shall not entitle him to be considered and deemed a citizen of the United States.

To meet a supposed defect in the act of 1802, an act was passed, February 10, 1855, providing that persons born, or hereafter to be born out of the United States, whose fathers were or shall be, at the time of their birth, citizens of the United States, shall be deemed citizens, but that the right of citizenship shall not descend to persons whose fathers never resided in the United States; and also that a woman, who might be naturalized under existing laws, who is married, or who shall be married, to a citizen, shall be deemed a citizen.

There have been, also, several cases of collective naturalization. By the third article of the first Convention of April 30, 1800, with France, for the cession of Louisiana, it is provided that the inhabitants of the ceded territory shall be incorporated into the Union of the United States,

and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all rights, advantages, and immunities of citizens of the United States. *U. S. Laws*, vol. viii., p. 202. A provision to the same effect is to be found in the sixth article of the treaty of 1819, with Spain, for the purchase of the Floridas. *Ibid.*, p. 256. By the eighth article of the treaty of 1848, with Mexico, those Mexicans who remained in the territories ceded, and who did not declare their intention, within one year, to continue Mexican citizens, were to be deemed citizens of the United States. *Ibid.*, vol. ix., p. 930. By the annexation of Texas, under a resolution of Congress, and its admission into the Union on an equal footing with the original States, all the citizens of the former republic became citizens of the United States. *Ibid.*, vol. v., p. 798.; vol. ix., p. 108.

## CHAPTER XX.

### EFFORTS TO AMEND NATURALIZATION LAWS.

DURING the second session of the twenty-fifth Congress, several memorials were presented in the House of Representatives, praying Congress to pass an act repealing the naturalization laws then in force, or so to modify them as to secure more effectually to the native citizens the right of government, among which was one presented by John M. Patton, of Virginia, from the Native American Association of Washington city, signed by nearly a thousand persons. See *Congressional Globe*, 1837-8, p. 187. At the same session, a Select Committee was appointed on the subject, of which David Russell, of New York, was made chairman; and he, as chairman, reported a bill, at the close of the session, to amend the naturalization laws, which was read twice and committed, and no further action was had thereon. See *Congressional Globe*, 1837-8, p. 489. Nor was the bill considered or acted on during the third session of that Congress, though a memorial was presented by Henry Johnson, of Louisiana, signed by several thousand citizens of that State, soliciting the entire repeal of the acts providing for the naturalization of foreigners, which was ordered to be printed, and referred to the Committee of the Whole on the State of the Union. See *Congressional Globe*, 1838-9, p. 178.

At the first session of the twenty-sixth Congress, Augustus C. Hand, of New York, introduced a bill in the House of Representatives, to

establish an uniform law of naturalization, and to repeal all acts then in existence, which was referred to the Judiciary Committee, and no further action was had upon it during that session. At the second session, he again introduced the bill, and moved its reference to the Committee of the Whole, which was negatived, on a call of the yeas and nays, by a vote of 96 yeas, 99 nays, and then referred to the Judiciary Committee; and that ended the matter for that session. See *Congressional Globe*, 1840-41, pp. 23, 36, 41.

On the first of August, 1842, James P. Walker, of Wisconsin, asked leave to introduce in the Senate a bill to reduce the term of residence, required by law for the naturalization of foreigners, from five to two years. William S. Archer, of Virginia, resisted this motion, and moved to lay the motion for leave on the table. Mr. Walker urged his motion in a speech of some length, to which Mr. Archer replied, and among other views expressed the following:

"The honorable gentleman had railed against his opposition to the introduction of this bill, as if he was desirous of repelling foreigners. He (Mr. A.) certainly did not desire that, upon their arrival in this country, they should at once be entitled to all the privileges of citizens; but he would not prevent them from acquiring property, and preparing themselves for the enjoyment of those political rights and privileges which belong to the citizens of this country. He did not believe that any good man ever entirely renounced his attachment to the soil upon which he was born. Would it then be proper, in any sense, to admit at once a large class of persons, having foreign attachments and feelings averse to ours? He repudiated such a doctrine altogether, and for the purpose (if the honorable gentleman would allow him to say it without offence) of stigmatizing the proposition by its immediate rejection, moved that the honorable gentleman's proposition be laid upon the table."

Mr. Archer's motion prevailed by a vote of 21 yeas to 18 nays, Messrs. Berrien, Clayton, Dayton, Graham, Conrad, and Preston, being among those in the affirmative, and Messrs. Benton, Buchanan, King, Mangum, and Woodbury, in the negative; Mr. King remarking, however, at the time he voted, that he did so without reference to the merits of the bill, and only in courtesy to the mover of it. See *Congressional Globe*, 1841-42, p. 817.

During the first session of the twenty-eighth Congress, a number of petitions were presented in both branches, praying for such alteration in the naturalization laws, as to require all foreigners to reside twenty-one years in the country before admitting them to the same privileges as native citizens, all of which were referred to the Judiciary Committee. In the Senate, on the first of June, 1844, James Buchanan, of Pennsylvania, presented one of these memorials, numerously signed by citizens of Philadelphia, in presenting which he said, however, that "he felt himself constrained by a sense of duty to declare that he could not advocate the

prayer of the memorialists," and that "he was opposed to any change in the naturalization laws, and could not consent that a foreigner should be compelled to remain in this country so long a period as twenty-one years, after declaring his intention to become a citizen of the United States, before he could carry his intention into execution." Dr. Daniel Sturgeon, also from Pennsylvania, and Col. Thomas H. Benton, expressed similar views. On the seventh of June, 1844, William S. Archer, of Virginia, in presenting a similar petition, expressed himself thus :

"This was a subject which, he was sorry to say, had not yet sufficiently attracted the attention of the people of the United States. There was, he thought, a growing combination of circumstances, which furnished ample ground for the conclusion, that the great mass of uneducated foreigners, wholly ignorant of the nature and value of our institutions, annually pouring into the country, could not, within the short period of five years, fixed by the present law, become fit to exercise, with a due sense of their value and responsibility, the rights and privileges of native born citizens. The premature exercise of such rights had grown to an evil of great magnitude, of which there had, unhappily, but too recently, been a painful demonstration."

Several weeks afterwards, Mr. Archer presented eleven other petitions of similar import, on which occasion a brief conversational debate took place between him, Mr. Buchanan, Mr. Berrien, and Mr. Allen, of Ohio, from which the following extracts are made :

Mr. Archer said it was proper that the memorialists should know that the time was too short before the adjournment to admit of the possibility of decided action by the Judiciary Committee, upon their memorials. He did not, therefore, concur in the opinion of the Senator from Pennsylvania, that that committee should act upon so important a subject in so short a time; and he would take that opportunity to say that, when an occasion proper should arise, if no one in that body more competent to the task should move in the matter, he would put himself forward to make the motion necessary to secure the object of the petitioners.

Mr. Buchanan. Do I understand the Senator from Virginia to say that the Committee on the Judiciary would not act upon the memorials this session?

Mr. Archer could not speak for that committee, but expressed the opinion that, from the shortness of time, it would be impossible for that committee to act this session.

Mr. Buchanan remarked that he had urged action upon the memorials at the instance of the memorialists. He had received several letters urging him to endeavor to procure action upon the subject this session.

Mr. Archer said it was not that he was adverse to action on the memorials this session, if it could be had, which had induced him to make the remark; but he wished it to go abroad, without presuming to indicate it as the excuse of the committee, that the time was too short to decide upon a question of such magnitude this session. If the committee should find time, he presumed the subject would be attended to. If not, the reason should be known. It was not necessary to show that there was no indifference on the part of the Senate to the subject of memorials.

Mr. Allen. The senator of Virginia, [Mr. Archer] if I understand him aright, declared that he agreed with the memorialists; that the laws ought so to be altered as to require all native born citizens of other countries, who come to reside among us, to remain dis-

franchised for *twenty-one years*, before they are allowed to be naturalized; and that, if no other senator did so, he would, at the next session, introduce a bill for that purpose. [Here Mr. Archer said, "Certainly, certainly."] Well, sir, I stand here utterly opposed to any such change of the laws to the prejudice of these people. [Here Mr. Buchanan said, "That is right; that is right."] I shall oppose it, not only on the general ground of manifest injustice and inhumanity towards these people, but also, because nothing could tend more to exasperate the feelings of men, and to disturb that harmony which it is so desirable should subsist between all parts of our population. I can conceive of nothing more certainly calculated to excite hostility to our institutions, in the very bosom of our country, than a measure which proposes to exclude from the benefits and rights of citizenship, hundreds of thousands of honest, industrious, and upright men, who have quit their native land, because of the oppression which there they suffered, and sought freedom under our flag, which they are ready ever to defend. When such a measure shall be presented, I shall resist its adoption to the uttermost of my power. *See Congressional Globe 1843-44, p. 658.*

In the House of Representatives, on the 31st of May, 1844, John Quincy Adams rose and asked leave to present a memorial from certain citizens of Pennsylvania, in which the memorialists respectfully represent that they are opposed to the facility of access which the naturalization laws, as they at present stand, afford to aliens for the attainment of the rights and privileges of citizenship. The prayer of the memorial is: that the naturalization laws may be so altered as to require a residence of twenty-one years. He presented the petition in this formal manner, and not in the ordinary way, by laying it on the clerk's table, because it related to a subject of considerable importance, and upon which there was a considerable difference of opinion; and because he was willing to afford to the petitioners, who were unknown to him, the satisfaction of having their petition brought pointedly to the notice of the House; but, at the same time, he would remark that he did not wish to be understood as holding himself bound in any manner to support the prayer of the petition. He moved that the memorial be referred to the Judiciary Committee. Mr. Hammett moved that it be laid upon the table., Mr. Murphy demanded the yeas and nays, which were ordered; and being taken, resulted—yeas 128, nays 26, as follows:—

Yeas—Messrs. Anderson, Arrington, Ashe, Atkinson, Barringer, Benton, Bidlack, Boyd, Brengle, Brinkerhoff, Brodhead, Milton Brown, William J. Brown, Jeremiah Brown, Burke, Caldwell, Sheperd Cary, Carroll, Reuben Chapman, Augustus A. Chapman, Clinch, Clinton, Coles, Cross, Cullom, Dana, Daniel, Garrett Davis, Richard D. Davis, John W. Davis, Dean, Dellet, Dickey, Dillingham, Dromgoole, Dunlap, Ellis, Farlee, Ficklin, Foot, Foster, French, Goggin, Willis Green, Byram Green, Gridler, Hale, Hamlin, Hammett, Hardin, Harper, Henly, Herrick, Hopkins, Houston, Hubbard, Hubbell, Hughes, Hungerford, Washington Hunt, James B. Hunt, Charles J. Ingersoll, Irvin, Jenks, Cave Johnson, Perly B. Johnson, George W. Jones, Andrew Kennedy, John P. Kennedy, Kirkpatrick, Labrance, Leonard, Lucas, Lumpkin, Maclay, McClelland, McClernand, McConnell, McDowell, McKay, Mosely, Murphy, Nes, Newton, Norris, Owen, Parmenter, Payne, Petit, Peyton, Purdy, Rathbun, Charles M. Reed, David S. Reid, Reding, Relfe, Rhett,

Bitter, Russell, St. John, Sample, Saunders, Schenck, Senter, David L. Seymour, Simons, Slidell, Albert Smith, Thomas Smith, John Stewart, Stone, Strong, Summer, Sykes, Thomason, Thompson, Tyler, Weller, Wentworth, Wetherad, White, Williams, Woodward and Yost—128.

Nays—Messrs. Abbot, Adams, Causin, Clingman, Collamer, Giddings, Grinnell, Hudson, Jos. R. Ingersoll, Daniel P. King, Melville, Marsh, Morse, Phoenix, Elisha R. Potter, Pratt, Rodney, Rogers, Caleb B. Smith, Spence, Vance, Vinton, and Winthrop—26.

At the second session of the twenty-eighth Congress, Messrs. Edward Joy Morris and Joseph R. Ingersoll, made ineffectual efforts in the House of Representatives, to obtain legislative action on the subject of the naturalization laws. See *Congressional Globe*, 1844-45, pp. 64, 150. A number of petitions on the subject were also presented, and on the 31st of January, 1845, Romulus M. Saunders, of North Carolina, from the Judiciary Committee, presented a report and bill on the subject. The bill was read twice and referred to the Committee of the Whole on the State of the Union, and no further action was had thereon during the session. The bill adopted the period of five years' residence and two years for making the declaration of intention, but added new guards against frauds, &c. *Appendix Congressional Globe* 1844-45, 130. During the early part of the same session, Henry Johnson, of Louisiana, introduced a resolution in the Senate instructing the Committee on the Judiciary to inquire into the expediency of modifying the naturalization laws so as to extend the time allowed to enable foreigners to become citizens, prevent frauds, &c., which, after a debate in which Messrs. Johnson, Archer, Rives, Allen, Merrick, Dickinson, Berrien, and Foster of New York, participated, was adopted:—

Mr. Johnson observed, that the facilities with which foreigners had been naturalized within the last few years, the perjuries committed in effecting the object, and the fraud and violence by which our elections have been controlled, all prove the necessity of an immediate change in the naturalization laws of the United States; and that public sentiment every where loudly called for prompt action on the subject, there can be no doubt. He remarked that, from information derived from the most respectable sources, it appears that thousands of foreigners were naturalized and permitted to vote in some of the large cities, at the late Presidential election, within a few weeks after they had reached our shores; that in the city of New York alone, upwards of 3,000 foreigners had been metamorphosed into American citizens, a few days before the election; and that, in effecting the dirty purpose, the most enormous frauds had been perpetrated; and that a committee of vigilance in Philadelphia, composed of respectable men, had reported that, in a single ward of that city, 305 votes had been taken in the late election, and that not one of the men who gave the votes were to be found in the ward ten days after the election. It is, indeed, a lamentable fact, said Mr. J., that most of the foreigners who immigrate to this country are profoundly ignorant of the nature of the government and of its political institutions, and are mere instruments in the hands of designing

men, to be used at elections for the most corrupt purposes. They control our elections, and participate in the mobs and riots which disgrace the country.

It cannot be disguised that, since the establishment of the policy which threw so widely open the doors of the Constitution to strangers, a great change has come over the country. The causes which induced such facilities to be afforded to men of foreign birth to become American citizens, have all passed away, except the feelings of kindness which were an element in the Legislature; and they, with the exception of inflicting a positive wrong, must be subordinate to the great interests, the permanent happiness, and the abiding glory of the nation. Our country, from the vast influx of immigrants for the last forty years, as well as the unprecedented natural increase of our native population, requires no such extraneous aid to give her strength. The vast augmented diffusion of education, improving native talent, does away the necessity of inviting knowledge by the promise of political privileges. And we have, therefore, no motive left to extend such favors and indulgence, which are, in my view, adequate to counter-balance the positive evils that result from conferring them. Free government can only be preserved and successfully conducted by the wisdom of its citizens, therefore our efforts should be constantly directed to enlighten our native population. The mass of foreigners who come among us have as much to unlearn as to learn, to fit them for free government. The prejudices of birth, the predilections for the usages and customs of the country they come from, the love of its political institutions, or a hatred so great of them, confound license with well-regulated freedom; all conspire, in my opinion, to render it no longer desirable that they should be depositories of political power in this country. In making these observations, he said he was aware that individuals might come among us, to whom they do not apply; that men might immigrate here of whom any country might be proud. We might again have our Lafayettes and Gallatins, our Montgomerys and Emmetts. But we cannot act on exceptions. We must look at the mass—at the swarms of needy, ignorant people, which the necessities of Europe are annually casting on our shores. He did not wish to be understood, in making these remarks, as being opposed to the immigration of foreigners to the United States. He would still allow strangers to seek an asylum in this country, and would permit them to acquire land and other property; and he would protect them in their persons and rights, until they should have resided here a sufficient time to understand our laws and political institutions, and to become identified in interest and feeling with the American people. They should comprehend the rights, and appreciate the duties of American citizens, before they participate in the administration of the government. And he would prohibit foreign governments from transporting their convicts and paupers into this country, which some of them have done within the last few years to an alarming extent. This question (said Mr. J.) soars far above party considerations. It is a question upon which depends, not only the purity of our political institutions, but the preservation of the government itself. All parties—whigs, democrats, natives, and naturalized citizens—are equally interested in guarding against a repetition of the abuses complained of, which, if not prevented in future, may ultimately destroy our government.

Mr. Archer observed, he did not merely deem the question involved in the resolution just submitted, transcendental in its magnitude and importance. He deemed it even more than that: it was an issue that comprehended every other issue that was at this time vital in its interest to the people of the United States.

Mr. Rives remarked, while he was not prepared, at the present moment, to go as far as seemed to be contemplated by his honorable friend from Louisiana, to extend for a very considerable period of time the probationary term of residence now required to



acquire the rights of citizenship—yet he could have no hesitation in giving his countenance, simply as a proposition of inquiry, to the honorable Senator's resolution. It seemed to him (Mr. R.), from what they had all heard from the honorable Senator from Louisiana, (Mr. Johnson,) from what was known through the medium of the public press throughout the country, to every individual—that it was the bounden duty of Congress to afford the widest scope to the inquiry which was proposed, in regard to the nature and magnitude of the evils complained of, as well as a suitable and effectual remedy for the abuses which had been carried on to such a provoking extent under the operation of these naturalization laws. He did not himself entertain a doubt—and the universal voice of the people bore testimony to the fact, and Senators could not, if they would, turn a deaf ear to it—that these abuses existed to an alarming extent, and demanded the most earnest and searching inquiry. As his honorable friend from Louisiana had remarked, the vast number of immigrants which were now daily arriving upon our shores, under the inducements thrown out by our laws, and forming powerful elements in our social organization, and entering into the practical working of our institutions,—demanded the consideration of every American citizen, whether native or adopted.

He (Mr. R.) was not one of those who would wish to exclude that element any more now than heretofore. He would not subject it to any unreasonable restraints; far less would he subject it to any discriminations; nor would he hesitate to give to every foreigner, when an American citizen by naturalization, and in fact, as well as in name, his fair and just share in the administration of the government, and in the direction and control of our common destinies; but, at the same time, as his honorable friend (Mr. J.) had said, every consideration connected with the safety and purity, as well as the establishment of our own free institutions—all the impressive lessons of history—enjoined upon us the solemn duty of putting these vital branches of national economy under a system of wise and efficient regulation.

When we look back to that system as it stands upon the statute book—not its practical operation, but its fundamental principles—it seemed to him that, as a system, its foundations were laid in wisdom and prudence in regard to ourselves, as well as justice and liberality towards foreigners. What was that system? Its leading principle assumes that a continuous residence in this country for a period of five years, accompanied with a *bona fide* intention by evidence of a good moral character, orderly habits as a citizen, and decided attachment to the republican principles of our Constitution, and consummated, finally, by a solemn enjoinment of fidelity to the country and its institutions,—is such evidence, in the language of the Constitution of his (Mr. R.'s) own State, of "a permanent attachment to the common interest of the community, as authorizes the individual who presents such proof to be clothed with all the honorable attributes of an American citizen." He pointed out these considerations because they were made by the law of naturalization in the Constitution under which he had the character of an American citizen, so to be carried out that the eye of all could see the fundamental guarantees required by law; and, according to the requisition of the statute book, they were to be ratified by a solemn court of record. If he understood the history of this subject, as long as a system of naturalization policy was administered in the spirit in which it was conceived by the founders of our free institutions, there was no complaint heard whatever of any evil practical effect growing out of it; but, in the course of time, from every important change in our legislation, as well as from a growing indifference—recklessness, he might say—in the public mind, in regard to the proper administration of this law, a looseness arose in its practical operation, which was the source

of almost all the evils complained of by the Senator of Louisiana, and alluded to by his worthy colleague, (Mr. Archer.)

He would call the attention of those honorable senators and other gentlemen to a most vital and conservative provision in that law, which was passed during the first year of Mr. Jefferson's administration; and he asked the honorable senator from Louisiana [Mr. Johnson] to consider whether the revival of that provision would not go a great way towards avoiding those evils which he complained of. The Legislatures of that day, well knowing the facility with which American citizens were, upon emergencies, manufactured out of aliens freshly arrived upon our soil, without a pre-requisite of five years' residence, provided that every foreigner, after the date of that law, should, on his arrival, report himself to the court of record, to be registered there, with an account of his age, name, birth, the country from which he came, and all other things necessary for his personal identity; so as to prevent the probability of fraud. To show the conservative spirit in which our republican presidents had acted upon this subject, what did Mr. Madison do?—or rather, what was done during his administration? Another most important and salutary provision against fraud was adopted, in the requisition that no certificate of naturalization should be legal or valid unless the registry, and the preliminary declaration of intention to become a citizen of the United States, were set forth at full length in the certificate of naturalization. Under this system of legislation, a person born in a foreign country, and claiming to be an American citizen, was bound, in exhibiting his certificate, to show the record made by him before the proper court, on his arrival in the United States.

These two simple provisions, both of which were executed under the administration of two of the best republican presidents who had ever presided over the destinies of this country, gave rise to no complaint, as long as they stood upon the statute book, in regard to the abuses like those which had arisen within a few years past. When did they arise? When a fatal relaxation of that sound conservative policy commenced, called "the era of good feelings;" but, all must admit, an era not very favorable to that sort of protection, or liberty. In 1824, if he was not mistaken, the law which passed during Mr. Madison's time, requiring the record called for in the act originated by Mr. Jefferson, and also requiring the declarations and all the documents to be set forth, was repealed by an act of Congress passed in May. That was the first relaxation of the sound conservative policy under the two administrations to which he had referred. Another provision was made, at the same time, allowing the foreigner to go and make his declaration to the clerk of the court; and that certification was sufficient evidence of his determination to become an American citizen. The wise act of Washington and Jefferson required a notice of three years; it was now brought down to two years. These relaxations were the sources of most of the evils complained of. But that was not all. This course of innovation, after the folly of the times, having been once entered upon, a few years after (in 1828, during the last year of the administration of John Quincy Adams), was continued by another radical innovation, repealing altogether both the provisions of Mr. Jefferson's and Mr. Madison's laws. In this growing laxity, did we not find the occasion of those evils which his honorable friends had so properly presented to the consideration of the Senate? If so, did not sound wisdom require us to seek a remedy for these evils, by returning to the sound practical policy of the legislation of Jefferson's and Madison's time, and by revising those two provisions to which he had alluded, with such other guards as might be found requisite? *See Congressional Globe.*

A week or two afterwards, on presenting a petition of like import as Mr. Johnson's resolution,

Mr. Buchanan said he had also received, with this memorial, a request from a respectable citizen of Philadelphia, that he should express his opinion on this subject at the time of the presentation of the memorial. He did not consider this a proper time to enter into a discussion of this great question. At the same time, he had no objection to state that he was against extending the time of residence of foreigners beyond the period of five years, which was now necessary to acquire the rights of citizenship. He entertained the same opinions now, upon this subject, that he entertained when he formerly presented memorials of this nature; but if it should be established that the present naturalization laws were not a sufficient guard against frauds, and if it should be established that frauds had been committed to any thing like the extent mentioned, he should go with him who went farthest so to amend the naturalization laws that fraud would not be the consequence of this system; and he believed that every citizen of the country, whether native or naturalized, was deeply concerned in suppressing these frauds.

Mr. Archer said he was glad to know, at so early a period, what was the state of feeling here. He was glad that it had been announced in that debate, to the people of this country. Gentlemen were going to find, before two years passed over their heads, that this enormous abuse, which he had almost heard denied on this floor yesterday, would no longer be endured; the people were not going to be contented with observing the effect of remedies, or any cutting off of what his honorable colleague [Mr. Rives] termed "excrescences."

Mr. Rives observed, from his seat, that he had made use of no such expression.

He [Mr. Archer] understood him so; however, it was implied in the remarks of his colleague. He was going to do him full justice. He was very sure his honorable colleague, like himself, was most desirous to find a remedy for the abuses which had been brought before the Senate; but he [Mr. Rives] did not seem disposed to go to the extent that he [Mr. A.] was disposed to go to—not in stripping off branches of this abuse, but in going directly to the root. Let him tell his honorable colleague he should have his sincere participation in that object; but it was not in stripping off branches of the abuse which he [Mr. Rives] spoke of yesterday with a great many expressions of qualification, that this great abuse was to be reached. He had expected to find in him, and the honorable senator from Maryland [Mr. Merrick], cordial and zealous allies in the object which he, for one, would never lose sight of—an effectual eradication of the root of the evil. As to the sentiments of the honorable senator from New York [Mr. Foster], he asked the attention of the country to them. After that honorable gentleman had finished his remarks, he [Mr. A.] really did not know whether he would be at liberty to make any distinction between indigenous citizens of this country and those off-scourings of a foreign population who were to come here and enter into the practical operation of our institutions, if not to assist in framing them, while wholly ignorant of their value and import, or reckless of the consequences. He was told that, if we undertook to form any distinction between foreigners and native Americans, it would be invidious. He was told that one man who had lived five years in the United States was just as good as another, and just as much entitled to exercise the elective franchise in the United States. He was told you must look, not to distinctions made by residence or time, but those distinctions made by morals. And what next? That it was very difficult to detect or enforce distinctions depending upon morals. And all this amounted to what? To the fact that, whilst all were ready to admit that the most nefarious

abuses (and we had just as well undertake to deny that the sun shines as to deny this) had occurred at the late Presidential election, nevertheless, there was no distinction to be made between native born citizens and those who were from a foreign country. Let him tell the Senate and the country that such anticipations were not going to be realized. If the members of this and the other body did not take the matter into their hands, the people of the country would take it into their own hands, and adopt a more effectual guard against these frauds than any which had been proposed here for the redress of this public grievance. He moved the reference of the memorial to the Committee on the Judiciary.

At the first session of the twenty-ninth Congress, Robert C. Winthrop, of Massachusetts, presented in the House of Representatives the following resolves passed by the General Assembly of that State:—

Whereas, The purity of the ballot box is indispensable for the security of the rights and the free and full expression of the will of the people; and whereas, experience has clearly demonstrated that the naturalization laws of the United States are loose and defective affording opportunities for the perpetration of gross frauds, destructive alike to the rights and morals of our citizens and the stability of our institutions :

*Resolved*, That the rights, interests and morals of the people demand an immediate and thorough revision of the naturalization laws; and we regard it as an imperative duty of Congress so to amend those laws, that, while a liberal and just policy shall be adopted towards such foreigners as are or may come among us, the rights and privileges of our countrymen shall be kept inviolate, and the ballot box permanently guarded against every improper influence.

*Resolved*, That our Senators and Representatives in Congress are hereby especially requested to use their utmost exertions forthwith to procure such amendments in the naturalization laws as shall carry out and perpetuate, as far as possible, the principles indicated in the foregoing resolve.

When these resolutions were presented, Lewis C. Levin, of Pennsylvania, made a motion that they be referred to a Select Committee, and Richard Brodhead, of the same State, moved to refer them to the Judiciary Committee. A long and animated debate ensued, in which a great number of members participated, and during which Messrs. Levin, Campbell of New York, and Woodruff, expressed themselves in favor of material modification of the naturalization laws; Messrs. Stanton of Tennessee, Owen of Indiana, Darrah of Pennsylvania, Rathbun of New York, Yancey of Alabama, Baker of Illinois, and others, were in favor of the reference to a Select Committee, but opposed to any additional obstacles being interposed to enable foreigners to become citizens; while Messrs. Brodhead, Douglas of Illinois, Hunt of New York, Payne of Alabama, Faran of Ohio, Dixon of Connecticut, Bowlin of Missouri, Chipman of Michigan, Maclay of New York, took decided and unqualified ground for a change of those laws, and favored the reference of the subject to the Judiciary Committee, and at the close of the debate it was so referred; which committee, through Mr. Rathbun, made a report thereon, concluding with a resolution, "that no alteration of the naturalization

laws is necessary for the preservation of the rights, interests and morals of the people, or for the guarding of the ballot box against every improper influence." *See Congressional Globe of 1845-46, p. 52 to 353.*

During the first session of the thirtieth Congress, John D. Cummins, of Ohio, introduced a bill in the House of Representatives, declaratory of the rights of naturalized citizens, and to protect them in the peaceful exercise and enjoyment of their rights and privileges against the acts and influence of foreign governments and their diplomatic agents, which he desired referred to a Select Committee, but which was committed to the Judiciary Committee, and no further action was had thereon. *See Congressional Globe of 1847-48, p. 805-18.* At the same session, Daniel Webster introduced a bill in the Senate, providing that persons born out of the limits of the United States, of a father or mother who was a natural born citizen of the United States, should be entitled to all the privileges of citizenship; and, also, that every woman married, or who shall be married, to a citizen of the United States, shall be deemed a citizen, &c. It was referred to the Judiciary Committee, which reported favorably thereon, but no further action seems to have been had during the session. *See Congressional Globe of 1847-48, p. 834-44.*

On the 13th of February, 1850, James Thompson, of Pennsylvania, introduced into the House of Representatives, from the Committee on the Judiciary, a bill entitled "An act to extend the benefit of an act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on the subject of the wives and children of citizens," which was referred to the Committee of the Whole on the State of the Union. *See Congressional Globe 1849-50, p. 325.* At the next session the bill came up in order, but the House refused to consider it. *See Congressional Globe 1850-51, p. 24.* At the session of 1854-5, a bill similar in its provisions was passed.

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## CHAPTER XXI.

### NATURALIZATION FRAUDS.

On the 27th of January, 1845, Mr. Berrien, from the Committee on the Judiciary, reported a bill to establish an uniform rule of naturalization. It did not extend the probationary period beyond five years' residence in the United States, and one year in the State, but proposed addi-

tional guards and restrictions to enable a foreigner to become a citizen. It was ordered to be printed, but was not considered or acted upon during the remainder of the session. See *Congressional Globe* 1844-45, p. 194. On the 3d of March following, the same gentleman, from the same Committee, made another report on the subject of frauds committed upon the naturalization laws, 5000 copies of which, embracing an abstract of the testimony taken, were ordered to be printed by a strict party vote, the Whigs voting in the affirmative and the Democrats in the negative. See *Congressional Globe* 1844-45, p. 389-90. The following is an extract from the Report, *Senate Document, No. 173, 28th Congress, 2d Session*:

The committee, in the fulfilment of the duty assigned to them, would now proceed to examine these several subjects in detail, and to submit their views to the Senate in relation to them; but that justice to themselves, to the Senate, and especially to the grave and momentous subject referred to them, required that this examination, and the consequent submission of their views to the Senate, should be the result of a careful consideration of the evidence which they were authorized to seek by the personal examination of witnesses, or by commissions to take their testimony.

In obedience to the command of the Senate, commissions were issued to New York, Philadelphia, Baltimore, and New Orleans—the three former having been returned, but at so late a period as to render it entirely impracticable for the several members of the committee to examine them with the care and attention which their importance demands. The advanced period of the session at which these commissions were returned, the pressure of other important subjects on the attention of the Senate, and the consequent impracticability of obtaining any legislative action in relation to the naturalization laws at the present session of Congress, have, in the judgment of the committee, necessarily limited their duty to the presentment to the Senate of the testimony which has been obtained in such a form as might aid the legislation of a future Congress, and render the facts which it discloses in the mean time accessible to the public.

They have accordingly caused abstracts of this testimony to be made, which they herewith submit as part of this Report; and they recommend that the additional evidence which may be furnished, by the return of the commission which has not yet been received, may also be made part of the same by an abstract thereof, to be made under the direction of the Secretary of the Senate.

In obedience to the instructions contained in the resolutions above referred to, commissions were issued to the following-named gentlemen: to John C. Hamilton, John Lloyd, and Alexander Bradford, Esquires, of the city of New York; to William B. Reed, Samuel Badger, and John M. Scott, Esquires, of the city of Philadelphia; to Charles H. Pitts, Samuel Barnes, and George A. Spreekelsen, Esquires, of the city of Baltimore; and to William L. Hodge, William Christy, and Randall Hunt, Esquires, of the city of New Orleans—authorizing and empowering them to summon witnesses for the purpose of giving true answers to certain interrogatories.

In the report of the commissioners appointed to take testimony at New Orleans, they complain of not being able to secure the attendance of witnesses who were subpoenaed. They say:

"The commissioners have endeavored to execute the duties confided to them, free from all party bias or prejudice. They subpoenaed indiscriminately persons belonging to both the great political parties, who they thought could give information either on the subject of the abuse of the naturalization laws, or of frauds and violence at elections, as contemplated by the third interrogatory from the Judiciary Committee. They regret that those thus subpoenaed, belonging to the democratic party, have generally omitted or refused to attend, to give rebutting or explanatory testimony in relation to alleged frauds committed by that party, or to bring forward and sustain by testimony any similar charges against the opposite party."

The commissioners at Philadelphia also certify that the attendance of two persons, Richard Palmer and Isaac R. Diller, who might have probably made important disclosures in relation to some matters which were the subjects of investigation, whom they desired to examine, could not be procured. Sufficient testimony was, however, procured to show that enormous frauds and abuses had been practiced, as the following abstract from the testimony accompanying the Report of the Senate Committee proves :

#### FRAUDS IN LOUISIANA.

Among the testimony furnished by the commissioners at New Orleans is a certified copy of the proceedings of the Senate of that State, sitting as a high court of impeachment, for the trial of Judge Elliott, in 1844, from which the following abstract is made :

ARTICLE II.—"That the said Benjamin C. Elliott, judge as aforesaid, reckless of truth and duty, and contrary to the sacred obligation of his oath, by which he stood bound faithfully and impartially to discharge all the duties imposed upon him, unlawfully and corruptly caused and permitted *seventeen hundred and forty-eight certificates*, purporting to be certificates of naturalization, or judgments entered in legal form on the records of the said court, to be issued, under the seal of the said court of the city of Lafayette, by Abner Phelps, the clerk thereof, from the 2d day of March, 1841, to the 4th day of January, 1844, in fraud of the naturalization laws of the United States, to the subversion of the policy of the United States, and to the great danger of the liberties of the people—he, the said Benjamin C. Elliott, judge as aforesaid, well knowing the said pretended certificates to be false, and that there was no minute or judgment entered on record in said court, to authorize or warrant the issue of said certificates."

The yeas and nays were taken on the above article, and

Messrs. Garcia, Armant, Bernard, Carter, Downs, Dupre, Livaudais, Moree, Slidell, and Sparrow, voted that he was guilty of the issuing some of the said certificates, as charged, but not all, (10 yeas;) and

Messrs. Davidson, Lacoste, Ledoux, and Walker, voted that he was not guilty, because they believed that the question could not be divided, (4 nays.)

The third article of impeachment, which was in the following words and figures, was read, viz :

ARTICLE III.—"That the said Benjamin C. Elliott, judge as aforesaid, has unlawfully and corruptly permitted and caused Abner Phelps, the clerk of the said city court

of Lafayette, to issue, under the seal of the said court, at various times, from the 2d day of March, 1841, to the 1st day of January, 1844, fraudulent certificates of naturalization to a large number of aliens, to wit: 1748, or thereabouts, not entitled to be admitted, and not admitted, to citizenship; that among these certificates were—

1. One issued, on the 20th day of September, 1843, to Patrick Moran, who arrived in the United States seven years ago, and is now thirty-two years of age, who never made, in any court, a declaration of his intention to become a citizen, never took the oath of allegiance, nor complied with any of the requisites of the acts of Congress on the subject of naturalization.

2. One issued to Patrick Flood, on the 20th day of September, 1843, who arrived in the United States when he was twenty-eight years of age, and who did not comply with any of the requisites of the acts of Congress on the subject of naturalization.

3. One issued, on the 20th September, 1843, to William Lynd, who had never complied with any of the requisites of the acts of Congress on the subject of naturalization.

4. One issued to Ludwig Bendixen, on the 21st day of September, 1843, who never complied with the acts of Congress on the subject of naturalization.

5. One issued, on the 22d day of September, 1843, to Rudolphe Schlothe, who never complied with any of the requisites of the acts of Congress on the subject of naturalization.

6. One issued, on the 19th day of September, 1843, to John McCarthy, who never complied with any of the requisites of the acts of Congress on the subject of naturalization, except making a declaration of his intention to become a citizen.

7. One issued, on the 19th day of September, 1843, to John Perry, who never complied with any of the requisites of the acts of Congress on the subject of naturalization.

8. One issued, on the 14th day of September, 1843, to Robert Lowe.

9. One issued, on the 10th day of August, 1843, to A. Garcia Anselmo.

10. One issued, on the 20th day of August, 1843, to Francisco Lopez.

11. One issued, on the 20th day of August, 1843, to Fidele Tagliaferro.

12. One issued, on the 20th day of August, 1843, to Juan Ybarry.

13. One issued, on the 20th day of August, 1843, to Joseph Davis.

14. One issued, on the 20th day of August, 1843, to James Treasas.

15. One issued, on the 20th day of August, 1843, to C. Maitre.

16. One issued, on the 20th day of August, 1843, to Francisco Pereiras.

17. One issued, on the 20th day of August, 1843, to Bartolomeo Robira.

18. One issued, on the 20th day of August, 1843, to Ramon Morello;  
and

19. One issued, on the 20th day of August, 1843, to J. Monfa, and delivered for him, by the clerk of the said court, to B. Robira; the said J. Monfa never appeared before the said city court of the city of Lafayette.

That in no one of the above specified cases were the necessary qualifications to enable the applicant to become a citizen of the United States proved, in the manner and form and by the legal number of duly qualified and competent witnesses, to have been possessed by such applicant; nor was there, in any one of the said cases, a judgment of the said city court of Lafayette, rendered in legal form, and recorded; nor were the other forms and requisites of the acts of Congress complied with.

That the said Benjamin C. Elliott, judge as aforesaid, in many of the above mentioned cases, (to wit: in the cases of Robert Lowe, B. Robira, Joseph Davis, F. Tagliaferro, A. Garcia Anselmo, J. Monfa, and others,) was in court, and participated in the issuing of the aforesaid false certificates to aliens not entitled to them; and that, by



their issue, the said Benjamin C. Elliott, judge as aforesaid, has countenanced, practiced, and sanctioned, a fraud upon the naturalization laws of the United States, to the overthrow of law, the disgrace of the judicial power, the corruption of the public morals, and to the endangerment of good order and public liberty."

The yeas and nays were taken upon the above third charge, and

Messrs. Garcia, Armant, Bernard, Carter, Downs, Dupre, Livaudais, Morse, Slidell, Sparrow, and Walker, voted that he was guilty of some of the specifications charged in this article, (11 yeas;) and

Messrs. Davidson, Lacoste, and Ledoux, voted that he was not guilty, because the charge was not susceptible of division, (3 nays.)

The fourth article of impeachment, which was as follows, was read, viz.:

"That Benjamin C. Elliott, judge as aforesaid, caused and permitted 387 of the aforesaid certificates of naturalization, to be issued on the 21st day of September, 1843, in favor of aliens not entitled to be admitted to citizenship; and that, in sanctioning the issue of these, as well as of the other certificates of naturalization, the said Benjamin C. Elliott was instigated and moved by corrupt love of lucre, and a desire of unlawful gain; and that he has corruptly and unlawfully received, at various times, and from several persons, divers sums of money for the certificates of naturalization illegally issued from his court during the last three years. And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any further articles, or other accusations or impeachments, against the said Benjamin C. Elliott, and also replying to his answers which he shall make unto the articles herein preferred against him, and of offering proof of the same, and every part thereof, and to all and every other article, accusation, or impeachment, which shall be exhibited by them, as the case shall require, do demand that the said Benjamin C. Elliott may be put to answer the high misdemeanor in office herein charged against him, and that such proceedings, examinations, trial, and judgment, may be thereupon had and given as are agreeable to law and justice."

The yeas and nays were taken on the above charge, and

Messrs. Garcia, Armant, Bernard, Carter, Downs, Dupre, Livaudais, Morse, Slidell, and Sparrow, voted that he was guilty of corrupt motives, (10 yeas;) and

Messrs. Davidson, Lacoste, Ledoux, and Walker, voted that he was not guilty, (4 nays.)

The following decree was read, viz.:

"Wherefore, it is ordered, adjudged, and decreed, that the said Benjamin C. Elliott, judge of the city court of the city of Lafayette, be, and he is hereby, removed from his said office; and that the said office be, and the same is hereby, declared vacant, from this 6th day of April, 1844," and *unanimously* adopted.

The same commissioners also furnished a certified copy of a report of the Special Committee of the House of Representatives of Louisiana, to inquire into the election frauds perpetrated in that State at the Presidential election in 1844, from which the following extract is made:

The committee regret to say that they have not yet been able to extend their investigation to any parishes except those of Plaquemines and East Baton Rouge; and that, as regards Plaquemines, many witnesses of the utmost importance have not been examined. Some of those witnesses have been summoned, and have neglected to appear; others have secreted themselves, or kept out of the reach of the officers of this

House. Some have sent for excuse the plea of sickness; some are believed to be on board the steamer Agnes, and the residence of a few others could not be ascertained.

Notwithstanding all this, the testimony already received by the committee establishes, beyond doubt, that the election in Plaquemines, for electors of President of the United States, in November last, was conducted in a lawless and irregular manner; that it was accompanied with turbulence, disorder, threats, and violence, on the part of the public officers and others, with intent to intimidate and influence voters; and that it was fraught with illegal votes, with fraud and corruption, and with a fatal disregard of the laws of the land, of morality, and of religion.

That testimony is now submitted to the House in the printed journal of the committee accompanying this report.

The committee feel it due to themselves and to the good people of the State of Louisiana, in submitting the testimony reported by them, to notice and comment somewhat more in detail upon the extraordinary facts developed by that testimony. \* \* \*

It appears, from the testimony of Mr. John Claiborne and of Mr. John C. Lame, that on Monday, the 4th November last, at a meeting of the Central State Committee of the Democratic party, Mr. John Claiborne "proposed that means should be offered to such democratic voters of the parish of Orleans as had been excluded, by any circumstance or under any pretext, from voting that day, to go to some other point within the county of Orleans, stating his entire belief that they had a right so to do under the Constitution of the State."

"Mr. John Stidell and other gentlemen addressed the meeting, and the question was discussed legally and morally. Statements were made, that large numbers of democrats had been precluded, under various pretexts, from the right of voting. It was finally agreed, that an effort should be made to get such persons as had been excluded from voting here together, and offer them a conveyance to Pointe a la Hache, in the parish of Plaquemines, and within the county of Orleans, for the purpose of exercising the right of suffrage."

Mr. John Claiborne stated that he had ascertained that not more than 150 persons went to Pointe a la Hache, of whom 130 there voted.

Mr. John C. Lame stated that he went in the steamer Planter to Pointe a la Hache, from New Orleans, at the time and on the occasion already alluded to, and that there were 150 or 160 persons on board, about 20 or 30 of whom were not entitled to vote.

He continued:

"When the boat landed, seeing on the bank some whig gentlemen of the city, he requested the persons on board to walk in procession, for the purpose of keeping them separate from the whigs, for fear of any collision, as, the political excitement being high, such a thing might be apprehended. After they had left the boat, witness went on shore and saw the inspectors of election; told them those men had come there to vote; that about 130 of them were entitled to vote in the city, but had not voted, and asked their opinion of the law, whether those men had a right to vote in the parish of Plaquemines, within the county of Orleans, expressing at the same time his own views of their right. The inspectors of the election coincided with him in opinion, and he found it unnecessary to go in the room where the polls were open."

And he concluded his testimony by stating, in reply to a question by one of the committee, "*About one-third of the persons who went on board of the Planter were Americans; the rest were naturalized citizens.*"

Other witnesses swear that the great body of them appeared to be foreigners. And Mr. John Stidell, a member of the late Congress of the United States, and Representa-

tive elect of the first Congressional district of Louisiana, to serve in the next Congress of the Union, addressed the following letter to the presiding officers at the poll at Pointe a la Hache :

*"Tuesday, November 5.*

"MY DEAR SIRS : The steamboat Planter will convey to Pointe-a la Hache a number of legally qualified voters of New Orleans, who have been deprived of the opportunity of voting at New Orleans. I am sure that, being residents of the county, their votes will be received by you. The whig committee are collecting their votes, to be dispatched for the same purpose, to some point of which we are ignorant.

"Very respectfully, your obedient servant,

"JOHN SLIDELL.

"To Messrs. Debouchel, Regisse, and Wilts.

*"Pointe a la Hache."*

It is due in truth and justice to say, that this committee has received no evidence which in any manner justifies the statement of Mr. Slidell, in his letter as to the whig committee.

It appears, from the official returns made to the Secretary of State of Louisiana, that 1,044 votes were polled in the parish of Plaquemines, at the election of Presidential electors in November last.

Mr. Joseph B. Wilkinson says, "that more than 400 votes were never polled at any election, in the whole parish, previous to the last election."

Mr. Robert A. Wilkinson testifies that he "has lived in the parish twenty-five years; canvassed it when his father was a candidate, six or eight years ago; used his greatest exertions, and could not find more than 350 or 400 voters; believes there are not more voters in the parish now than were then."

Mr. Phillippe Toca corroborates this.

It is well known that at the last Gubernatorial election, and at the election for a Representative to Congress for the first Congressional district of this State, in July, 1844, there were great exertions made by both political parties; and yet we find that "Mr. Thomas M. Wadsworth, being duly sworn, deposes that his domicile is in the parish of Plaquemines; has been acquainted with the parish since 1833; has never known a vote, except the last, to exceed 400, or thereabout." And "Mr. Descoteaux Saucier, being duly sworn, deposes that he was born in Plaquemines, and lived there 58 years; was Sheriff of that parish fourteen years and seven months; resigned his office of Sheriff in 1834, and left the parish two years and one month ago; while he resided there, the number of votes received never exceeded three hundred and odd."

Comment upon this testimony is unnecessary.

#### FRAUDS IN PHILADELPHIA GENERAL SESSIONS.

John G. Wolf, of Philadelphia, deposed as follows :

I have knowledge of what I consider frauds upon the naturalization laws, obtained in this way; I was one of the Grand Inquest, inquiring for the city and county of Philadelphia, at the October term of the Court of Quarter Sessions. The judges of that court were the honorable George W. Barton, R. T. Conrad, and J. M. Doran. We were instructed to inquire into the subject of frauds upon the naturalization law. We did so, fully and minutely, particularly in the Court of General Sessions itself. The result of that investigation was a presentment, on or about the 28th of October, 1840. I have looked at a copy of this presentment, now exhibited to me, (hereto appended, marked

A,) which is correct. The facts stated in it are just and true, and were fully justified by the evidence before us and inspection of the papers. I wish to refer to this presentment as part of my evidence; it was made under a full sense of our responsibilities as jurors. After making this presentment, and remaining in session several days, expecting the action of the Commonwealth's officers upon it, we were discharged. I have notes in my possession of evidence taken in the Grand Jury, corroborating the statement I have made.

#### A.—Presentment of the Grand Jury,

That, in compliance with directions of the court, they entered immediately into a laborious investigation of the circumstances attending the naturalization of citizens in the Courts of General and Quarter Sessions; and, as the facts which the papers of the offices, and the examination of the clerks of said offices, have brought to the knowledge of the Grand Jury, would, in their opinion, render it proper that certain certificates of naturalization should be immediately vacated, they now present the following statements:

That the petitioners have not made their declarations in the case two years before their application for citizenship, yet, from the endorsements on the same, and the testimony of Isaac R. Diller, deputy clerk, and to the usage of the offices; it is believed that in each of said cases certificates of naturalization have been issued.

That, in a number of cases, the usual endorsement, when certificates of naturalization are issued, as sworn to and admitted by Isaac R. Diller and others, acting for the clerk, William O. Kline, certificates of naturalization are believed to have issued.

That none of these papers have the approbation of any of the presiding judges of the court; and, in case that approbation is necessary, it appears to this jury that such certificates of naturalization should be vacated.

That, in other cases, there are no signatures to the petitions, or to the proof of residence for five years, though marked "approved" by Judge Doran; and also by Diller, deputy clerk, that the petitions for naturalization, and the declaration of the citizens proving the residence for five years, had been duly sworn or affirmed. This class of cases requires such action as the court considers proper; as certificates of naturalization have, according to the oath of Isaac R. Diller, been issued, when approved by Judge Doran, and attested by him. That Judge Barton has proved, before the Grand Jury, in a number of cases, where, also, by the proof of Isaac R. Diller, certificates of naturalization are believed to have been issued, that his name or initials, signifying approbation, have been forged. The Grand Jury desire such action on these cases as the circumstances require—believing they ought to be vacated.

The Grand Jury, also, present, that Judge Doran authorized the persons acting for James Eneu, Clerk of the Quarter Sessions, and W. O. Kline, to swear the persons applying for citizenship, and the citizens proving the residence of the petitioners, in the hall of the State-house and the rooms adjoining the court room. That there are no means of distinguishing, during a portion of three days, how many were sworn in open court, according to law, and how many in the said hall and adjoining rooms. In the cases on those days, the Grand Jury desire such action as may be deemed correct.

That the Grand Jury, on inquiring for a list of fees received by James Eneu, jr., and W. O. Kline, on different days, in order to ascertain the naturalization certificates issued, find that these officers have kept no such account of fees received for issuing naturalization certificates, which they consider contrary to the law constituting their offices.

That, in the offices of William O. Kline, Clerk of the Court of General Sessions, and James Eneu, jr. Clerk of the Quarter Sessions, no account or register, or index, has

been kept of the citizens naturalized ; and that in no case has it been usual by them to enter on the declarations, that certificates of citizenship have been issued on the declarations, though issued in their own courts.

The Grand Jury regret to observe, that the precaution has not been taken to record, in the different offices, the residence, at the time of applying for citizenship, and where they have resided during the year, and generally during the four years additional, making up the five. And they would respectfully state, that if margins were preserved, stating these facts, numbers of the certificates issued, and the certificates cut from such books inserted, these precautions would be a great security against fraud ; and where copies or additional certificates were issued, such fact should be specially stated.

HENRY TROTH,  
JAMES L. DUNN,  
THOMAS BIDDLE,  
JOHN G. WOLF,  
JOHN RAKESTRAW,  
THOMAS STREET,  
• JEREMIAH CLARK,

JOHN SEDDINGER,  
SAMUEL C. COOPER,  
WM. H. MATTHEWS,  
JAMES FASSITT,  
CASSIMER L. LUBEN,  
WM. COLLINS.

James L. Dunn, Esq., being duly sworn, deposed as follows :

I was a member of the Grand Jury, inquiring for the city and county of Philadelphia, in the months of September and October, 1840. That Grand Jury were specially directed by the court, to inquire into the matter of alleged frauds said to have been committed in procuring naturalization papers. Before that Grand Jury, proof was made, entirely satisfactory to me, of the occurrence of frauds in these particulars, namely : that a number of certificates of naturalization had been granted upon papers upon which the name or initials of Judge Barton, of the Court of General Sessions, had been forged. Of this description, there were fourteen cases.

Secondly, that a number of like certificates had been granted in cases in which the declaration of intention had not been made two years previously.

Thirdly, that such certificates were granted where no declaration of intention had been made ; but I cannot say whether or not these were cases of minors.

Fourthly, that, in some cases, the dates of the declarations of intention had been altered on the record.

Fifthly, that in one of the records—namely, that of the declaration of intention—there were a number of pages, containing what purported to be declarations, manifestly interpolated, and admitted by the officers so to have been done. Upon this particular matter, we requested that an indictment might be drawn by the proper officer, and sent to us for our action thereon ; but this was not done.

Sixthly, that, in many cases, aliens procured their certificates of naturalization without the approval of any judge written at the foot of the petition, according to the usual practice of the court, as declared to us by one of the judges of the court, who appeared before the Grand Jury, at his own request, and stated, among other things, that a thousand of these papers had been granted under his supervision, but never without his written approbation being put upon the petition. He also stated that, for a short period of time, he had intrusted the examination of the papers to the clerk, with strict instructions to be particular, and, relying upon his examination, had signed the papers, when presented to him, without examination by himself ; but being then informed that irregularities had crept in, he adopted a different course, and examined for himself, and rejected a number of applicants. Of this class, there were thirty-seven cases.

George W. Barton, Esq., counsellor at law, being duly sworn, deposed as follows :

I was President Judge of the Court of General Sessions for the city and county of Philadelphia, during and after the year 1840. Some time in the fall of that year, I received information that a large number of frauds, in reference to matters of naturalization had been practiced, or were supposed to have been practiced, in the naturalization process of that court, as well as in the Court of Quarter Sessions, for the same city and county. As soon as practicable after receiving this information, I sent for the Grand Jury, made this matter subject of special charge, and urged upon them the necessity of full investigation. I was examined, among other witnesses, by the Grand Jury; and, from the naturalization papers which were placed in my hands, I selected a large number, upon each of which was written a forgery of the initials of my name, approving of or allowing the same. I thought they were pretty skillful imitations, but superior to my own handwriting. I have no recollection of any forgery of my name, beyond the initials. For the sake of convenience, it was frequently the practice of the judges to write only the initials of their name, instead of the name in full, at the end of the word "approved." There were a large number of naturalizations granted in other rooms, out of the court rooms, but never by me, nor with my consent or approval. I have never ascertained nor obtained any knowledge of the person or persons who forged my initials, although every means were used to discover the same. I am informed, and believe, that George Hoffner, who was a high constable of the court, and others among its tip-staffs, acted occasionally as deputies for the clerk. I never authorized any proceeding of the kind, never was applied to upon the subject, nor ever heard of it until my connection with the court had ceased; and I have reason to believe that the practice was unknown at the time to the majority of the court.

Thomas Doyle, deputy in the clerk's office of the Court of General Sessions, in answer to the question, testified as follows: that it appears from the book that on the 28th October, 1840, the papers of some sixty or seventy persons, naming them, "purporting to be declarations of intention, were annulled, and made void and of none effect, by decree of the Court of Quarter Sessions of the county of Philadelphia, as having been fraudulently and irregularly interpolated on said record."

#### FRAUDS AND ABUSES OF THE NATURALIZATION LAWS.

Heman W. Childs, of the city of New York, merchant, aged forty-five years, being sworn, answered thus :

I consented to serve, to prevent aliens getting their papers illegally at the Court of Common Pleas in this city, in October, 1840, in behalf of the Whig Young Men's Executive Committee, and was there ten or fifteen days prior to the November election of that year. The press of aliens was very great at the court to get naturalized. They came principally under three men, who led them. One was a German, whom I have seen in a German house in Broad street, as a porter. Another was Mr. Snow, a shoemaker, who resided at that time in Greenwich street, in the third ward; I should think he was an American. The third was a man of Irish descent, who resided then, and I believe has since, in the sixth ward. These three persons were going from Tammany

Hall to the Court-house constantly, and bringing in three or four or five at a time. Mr. Snow I knew to be a poor man; I think they all were, yet they spent a great many days wholly in bringing up aliens to be naturalized. I put questions, through the judge to the applicants, and by such questions prevented several—quite a number—getting their papers at that court. I have known them to bring up the same persons as many as three times, producing different witnesses to strengthen their case, and some of them were finally rejected, who, within a day or two after, were naturalized in the Marine court. The press was so great that persons were admitted with very little investigation, such as would by no means satisfy a juror in a case in our common courts.

I should think over 100 were naturalized daily for several days prior to the election. I usually called in the evening on the clerk, to see the number that had been naturalized through the day, and he would inform me, by counting the number of tickets he had received from Tammany Hall, which were a plain ticket with one or two initials on them. I understood the price of naturalizing with these tickets was one dollar. In the same year, in the Marine court, I saw Henry E. Riell stand near the clerk with quite a number of \$5 bills in his hands; I think they were of the Tradesmen's bank. As often as two of the papers were passed, he gave the clerk a \$5 bill. I should think the time occupied in passing the two would not exceed seven minutes. There appeared to be very few questions asked. My attention was called to this court, as several were naturalized there who had been refused in the court of Common Pleas.

Henry E. Riell, of New York, a Custom-house officer, aged thirty-five years, being sworn, said:

Ever since I have been a man, I have been friendly to naturalization. Have been engaged in such measures by the general committee of Tammany Hall; I have made out most of the papers that have been made in Tammany Hall for a great many years. I was one of the general committee. I believe it has been customary pretty generally to advertise merely that the Naturalization committee was in session. In 1840, I think, I published, for some two or three months previous to the election, a brief exposition of the laws, that applicants might know what qualifications were necessary. At each election, it has been customary for many hundreds to apply from the counties adjoining this, principally owing to the witnesses residing in this county, or the respective courts where the applicant resided being closed. A large proportion of the applicants were generally poor people; and those who wished to pay for themselves generally applied at the courts. I should suppose the general committee naturalized from twelve to fifteen hundred persons for the last election.

Q. About what number were thus naturalized at the spring election, 1844?

A. I believe about thirteen hundred. I ascertained this number from the clerks of the courts.

Q. About what number were thus naturalized at the spring election of 1843, or at any election previous thereto?

A. I believe about the usual number naturalized at the spring and fall elections, with the exception of the Presidential election, 1840, would average about one thousand at each election; and on that occasion I was engaged some four or five months in making out the preliminary papers, and, to the best of my remembrance, about three thousand were naturalized during the period of five months. I paid several hundred dollars myself towards defraying these expenses on that occasion.

Q. Are you at this time, or have you within a few weeks past been, engaged in ob-

taining the attendance of persons to be naturalized, by an advertisement, with your own name subscribed thereto, or that of any other person?

A. I am President of the Naturalization Society of this city, which meets monthly, and has been established for the purpose of giving information to aliens as to what the laws of Congress are on that subject, and to encourage them to declare their intention and to become citizens in a lawful manner. There has been such an advertisement, with my name subscribed to it, on the 29th of last month, for the purpose of declaring their intention. The invitation to be naturalized, I believe, was accidentally left out. This society, which has been established for charitable purposes, meets about once a month; and it makes no distinction, by its constitution, whether the applicant is a whig or democrat. We aid any that apply.

#### HIRED WITNESSES AND FALSE SWEARING.

Meyer Blum, of Baltimore, appeared, and was sworn on the five books of Moses, (he being a Jew.) He gave the following answers to interrogatories propounded to him:

Is a naturalized citizen. Knows a person, named Emanuel Weinman, who has been a witness for a number of persons naturalized. Has known said Weinman to call upon persons who had not been many months in the country, and request them to go to court to be naturalized; that he would be their witness, or get them naturalized. The said Weinman has obtained naturalization papers for many persons who were not entitled to receive them. Would not believe Weinman upon his oath. He bears a bad character, as many other persons will testify if called upon. He does not know that persons improperly naturalized by Weinman had voted, but infers from their getting their papers that such was their intention. Knows that John Schad, naturalized by Weinman, in September, 1844, was in Germany two years ago next month, as he took out and brought back letters for witness.

Samuel Ellenger was sworn on the five books of Moses, (he being a Jew,) and answered as follows:

"Knows Emanuel Weinman, and that he has been much engaged in naturalizing persons; and, from his having had no business to transact, is induced to believe that he was compensated for being a witness in some cases. From his knowledge of Weinman, witness would not believe him on oath. Witness believes, that to protect the country, an alteration of the naturalization laws is necessary. Every foreigner coming to this country should bring a certificate of good character. Witness states, that as Weinman left the room a few minutes before his (witness) examination, he spoke to the witness in Hebrew, and requested that he would be merciful to him (Weinman) in his testimony."

The Baltimore commissioners, who examined the foregoing witnesses, make the following note in their report in relation to Weinman:

Emanuel Weinman, the witness, appears upon the records of the several courts in this city as the witness in a number of cases of naturalization. This commission having obtained from the clerks of those courts a list of the persons naturalized in the years 1843 and 1844, examined Weinman in relation to his knowledge of some of them—he



(Weinman) not having been informed whether he had been witness or not in the cases named to him. It appears, from this examination, that he acknowledged himself to be unacquainted, by name, with several individuals for whom he acted as witness, to enable them to obtain their naturalization papers, in 1843 and 1844.

Simon P. Huff, of the city of New York, attorney at law, aged forty-five years, being duly sworn, said :

The law requires a previous residence of five years in the United States, and in the State of one year ; and the witnesses have sworn to these facts, but I have been satisfied in my own mind that they knew nothing about it. The books show that in a number of instances the same witness has testified for fifty, sixty, or one hundred applicants. I have seen instances when the witness was ignorant of the name of the applicant, and would ask him his name in his native language. I have seen witnesses hanging about the court, who I was satisfied were there for the purpose of being witnesses for persons applying for naturalization ; some of them have told me they were paid for being witnesses ; some of these witnesses were not citizens ; and in one instance, I remember, after a man had been witness for a number of applicants, he was himself naturalized.

William Wardenberg, being sworn, gave the following answers to interrogatories propounded to him :

Knows a man of the name of Frederick Niemiller ; was his witness when naturalized ; he was naturalized last fall in Baltimore county court ; knows Frederick Appel, or Abel ; was his witness when naturalized in the United States court ; was well acquainted with him when he was naturalized ; he bore a good character ; he was afterwards convicted in court of some offence ; is not certain his conviction was after his naturalization ; does not know whether he was or was not charged with stealing coffee at the time he was naturalized.

David Randell, one of the justices of the Marine court of the city of New York, aged fifty years, being duly sworn, answered thus :

Q. Have instances occurred where the same person was the witness for any considerable number of applicants about the same time ?

A. Such instances have occurred ; I recollect such an instance during the election of 1840.

Q. Did any circumstances induce you to believe that such witness was employed by a political party for that purpose ?

A. Such witness was a violent politician, and appeared to be employed expressly for that purpose.

#### FRAUDS BY DUPLICATE CERTIFICATES.

David Randell, one of the justices of the Marine court of the city of New York, aged fifty years, being duly sworn, answered thus :

I would further state, that about the times of election there are numerous applications for duplicate certificates of the declaration of intention ; sometimes fifty in a day. This opens a wide door for fraud, in enabling applicants to personate others, and obtain a naturalization under a fraudulent use of papers, and by assuming the name of the person mentioned in such declaration. I would further observe, that the number of

applications for naturalization, as having arrived here under the age of eighteen, has greatly increased within the last few years, and induces me to think that some further guard, to prevent a fraudulent abuse of that portion of the act, is necessary. A further guard against fraud would be to require that a year should elapse between the time the alien is naturalized and the time when he shall be entitled to vote. Cases also occur frequently where the applicant, having been refused to be naturalized by the Marine court for insufficient qualifications, has been naturalized shortly afterwards by another court. I know this by the fact of the applicant having returned to the Marine court, shown his papers, and exulted in the result. As an expedient guard, I would suggest some provision imposing a penalty upon the party whose application has been refused, for again applying to another court. At the election of 1840, I have known twenty or thirty cases of such attempts to occur in a single day.

Q. Was it a practice of said court to grant such duplicate papers, on the mere suggestion of the party, without requiring any evidence of the identity of the applicant or the alleged loss of the original papers?

A. We never give copies without taking a deposition that they are the identical persons, the loss of the paper, and comparing the signature of the applicant with the original signature. Instances, to my knowledge, have occurred notwithstanding, of the same person applying and receiving several duplicates of his original paper. It is easy for parties who have declared their intention in the Marine court, and subsequently been naturalized in another court, to procure a duplicate certificate of their declaration of intention, and furnish the same to some third person, to be used for the purpose of obtaining naturalization papers.

Thomas Doyle, a deputy in the office of the Clerk of the General Sessions of Philadelphia, testified, in answer to the question whether duplicate certificates were given as a matter of course, as follows:

We ask some questions, but not under oath. We satisfy ourselves of the identity of the man, and that he has lost his papers. This is done in the clerk's office, not in court, the law not requiring it. Sometimes duplicates and triplicates are issued, upon the application of persons, friends, or agents, of the naturalized individuals. In such cases, we take the same pains to ascertain the identity of the individual and the loss of the papers. Have no recollection of ever issuing a certificate of the naturalization of a deceased man, on the application of the heirs.

Marcellus Eells, of the city of New York, gentleman, aged thirty-two years, being sworn, said:

I have known many instances where the party naturalized could neither read nor write; and I have found in such instances an entire ignorance of our institutions, which an extension of the term would correct. I recollect some years since in the Marine court two persons, each of whom was a witness for a great number of applicants, who were indicted subsequently, and convicted of perjury in their testimony as to the qualifications of some of those applicants, the majority of whom were illegally naturalized. I know at one time of a large number of duplicate certificates of naturalization, probably thirty in one morning, being issued from the Marine court to two persons who applied for them, who were not the individuals to whom those certificates belonged. I subsequently saw one of those certificates with the county clerk's certificate upon it, for the purpose of being carried to New Jersey, to be there used. That was in 1840. I do

know of instances of fraud, of which I can give more specific information at another time.

FRAUDULENT VOTING.

William Brown, of Baltimore, being sworn, gave the following answers to interrogatories propounded to him :

Have known many instances of illegal voting upon naturalization papers belonging to deceased persons. Have known persons to vote in six or seven wards of this city on the same day. Knows persons who have been employed to get dead men's papers, to be voted on by other persons. Witness would recommend that a law be passed, directing executors or other persons to deposit in court the naturalization papers of deceased persons. Knows an instance where a man, by the name of Dempsey, who had not been in the country more than four or five months, voted in the first and second wards of this city, on the same day, on the naturalization papers of his deceased brother.

Samuel Cohen, of Baltimore, was sworn on the five books of Moses, (he being a Jew,) and gave the following answers to interrogatories propounded to him :

A naturalized person informed witness that he had voted at the Mayor's election in this city, in 1843, in six different wards; and witness knows that the person alluded to was not naturalized until about two weeks previous to the Governor's election in 1844. Witness is of opinion that foreigners should not be brought to this country, unless they have passports exhibiting fair characters.

Heron R. Bennett, aged thirty-one years, being sworn, said :

I know of instances where a man voted twice—one particularly, where I had the man arrested. I have known instances where persons have voted who were not entitled such as convicts from Blackwell's Island. I had been in the habit of seeing them on Blackwell's Island, and thought it rather singular that their time should be up just about that time. I believe them to be convicts. I suppose they were discharged or sent off from the island, and have seen them back there shortly afterwards, having been committed as vagrants.

Charles Crane, of the city of New York, grocer, aged thirty-six years, being sworn, answered :

One man told me he had voted either in two or three wards, and was going to vote in one more. I do not know his name. I know of instances, when I was acting as inspector, of persons offering their votes who had come from places out of the State, and out of the county, and who were not entitled to vote. I have also known aliens rejected who would not swear that the certificates of naturalization they presented were their own papers. I know of nothing further pertinent to the subject.

Heron R. Bennett, of New York, aged thirty-one years, said upon oath :

I have known of papers in favor of deceased inmates of the almshouse being distributed to other inmates to vote with. This was between 1834 and 1841, during which time I was an officer in the almshouse.

John P. Strobel made the following statement in writing, to which he was sworn :

I will mention that, about eight years ago, a few days after the election, to convince myself of the truth or falsehood of what, in part, was told me, I called at the dwelling of a German, who was then, and for some time before, at work at or near Annapolis. This German's wife, stated to me that, on the morning of the election day, she was called on for the loan of her husband's certificate of naturalization, with a promise to return it in a few minutes; but, although she repeatedly called for it during the day, it was not restored to her until late in the evening.

John McWilliams, of Baltimore, appeared, and, being sworn, gave the following answers to interrogatories propounded to him :

Witness was at one time called upon, and requested to get persons to vote on certificates of naturalization of deceased persons.

Jonas Freidenwald, of Baltimore, was sworn on the five books of Moses, (he being a Jew,) and said :

He lives next door to Mrs. Schlosser, and has heard that she is in the habit of hiring out the naturalization papers of her first husband, but has no knowledge of the fact. When the witness had been in the country between four and five years, he was called on by persons who endeavored to persuade him to get his final naturalization papers; and, when witness told them he had not been a sufficient time in the country, he was told that that made no difference, and that they would get his papers; which witness declined.

Edward Dayton, of the city of New York, formerly a ship chandler, aged fifty-one years, being sworn, answered :

I know from the circumstance that, when attending at the poll of the election in the eleventh ward, in April, 1838, for the purpose of investigating the qualifications of individuals presenting themselves to vote, a person calling himself Francis Lancen, or Lancer, presented himself to vote, exhibiting naturalization papers taken out that or the preceding day. He was challenged and examined, under oath, and testified that he remembered perfectly well the time of his arrival in this country, in which he could not be mistaken, and that it was in the month of August, 1833. He further stated, that his father was his witness, on procuring his naturalization papers. He was less than five years here, from his own showing. I also was present at the trial of George Gausman in the year 1838, in the Circuit court of the United States; he was convicted of perjury as a witness to obtain the naturalization papers of an individual, and was pardoned, as I understand, by President Van Buren. This man had been a witness in a number of cases, and testimony was given that he had offered to be a witness for persons who had not resided in the country five years.

Robert Taylor, being sworn, said :

Q. Do you know of any one or more instances of convicts having been brought from the penitentiary on Blackwell's Island to vote in this city, and of their having voted, and when ?

A. From examinations made by me, as special justice, I ascertained from witnesses examined under oath, that several boats, with prisoners in each, left Blackwell's Island,

on which the penitentiary is situated, on the night of the 11th of April, 1842, and came to this city; some of them were taken to the third district watch-house in this city, in the eighth ward; some of them were put into a cellar in the fourth ward; and others were distributed in other parts of the city. It was subsequently ascertained that some of these prisoners voted the day after they left Blackwell's Island, (viz.: on the 12th of April, 1842,) in this city. The prisoners were discharged by some special justice or justices of the peace, and some of the aldermen of this city; neither of whom have any legal right to discharge prisoners from the island. That, although a great many prisoners left the island on the 11th of April, only ten of the discharges were dated on that day. Some of the discharges were antedated between two and three weeks, and in one instance the discharge of the prisoner bore date previous to his commitment. The discharges were dated from 20th March, 1842, to 11th April, 1842, and were for seventy-one prisoners committed as vagrants; and the term of commitment had not in any one instance expired. According to the statements of the prisoners themselves, 50 of them were born out of the United States, 20 of them in the United States, and 1 unknown; there were born in Ireland 36, England 7, Germany 3, Scotland 1, Wales 1, Europe 1, and Nova Scotia 1; in the State of New York 14, New Jersey 1, Delaware 1, North Carolina 1, Virginia 1, Massachusetts 1, Vermont 1, and unknown 1.

#### IGNORANCE OF OUR LANGUAGE AND INSTITUTIONS.

George Henry Poulson, aged fifty-two years, agent, residing in the city of New York, answered thus:

I have frequently been present as an interpreter during the process of naturalization; that the instances of persons applying to be naturalized who are wholly ignorant of the English language are frequent; and though they understood the terms of the oath when translated to them in words, yet they were frequently unable to comprehend the meaning of said oath; and there are now hundreds of Germans who have been admitted citizens, who do not now understand the English language, or the meaning of the oaths to which they have been sworn; and as to the principles of the Constitution of the United States, they have no knowledge or comprehension of them. Many of them are aged persons without any education, and who are naturalized at the solicitation of others, and without any desire of their own, merely to become the tools of political parties. I have been present and been asked to interpret the oaths, and my interpretation has been received without my having been previously sworn.

That he has no personal knowledge of such instances, but has heard of many, and believes them to be frequent. It is a general practice to advertise in a German paper in this city, that all Germans wishing to be naturalized should apply to the German committee at Tammany Hall, where they will receive their naturalizations gratis. I am well informed that it is the practice previous to elections for persons employed for that purpose by Tammany Hall to call on the Germans and to persuade them to be naturalized; and I have learned, in their general conversation, that it is often the case the certificates of naturalization are kept by said committee until the day of election, when they are handed to the parties, to be presented by them at the polls, they being accompanied thereto by some one of the said committee.

Q. At the times such votes are given, have the parties voting any knowledge of the principles or policy of the party in whose favor they deposit their ballots?

A. They have not; they are led by the word *democrat*. I do not take any part my-

self in politics, but my knowledge of these facts is chiefly derived from being agent of the German Immigrant Society. I formerly conducted a German paper in this city.

Alanson Nash, of the city of New York, attorney at law, aged forty-three years, being duly sworn, answered thus:

Since the year 1830, I have constantly attended the several courts in this city which receive the declarations of aliens, and grant letters of naturalization. I have noticed that a very considerable number of persons, when they declare their intentions, are unable to speak or converse in the English language. I have noticed, also, a great many persons, when they are naturalized, are also unable to speak or converse in the English language. I have noticed, also, that a vast many persons who are naturalized are unable to read or write, and I have been satisfied that they knew nothing about the Constitution of the United States or the laws of the country. I have noticed, also, that a great many persons who are naturalized, so far as one is able to judge, were transient persons.

Winthrop Atwell, of the city of New York, editor, aged thirty-six years, being duly sworn, answered:

The ignorance of the applicants, and their ignorance of our institutions. In half the cases, they did not understand the nature of their application. When I heard them examined the day previous to the last election, before the Court of Common Pleas, in this city, many of the applicants then naturalized, and without the intervention of an interpreter, did not understand enough of the English language to comprehend the nature of the questions propounded to them; which was so apparent, that after the certificate was granted, the judge remarked, "Don't bring me another man who does not understand the language, unless you also bring an interpreter with him."

David Randell, one of the justices of the Marine court of the city of New York, aged fifty years, being duly sworn, answered thus:

Q. Have instances frequently come to your knowledge, where the ignorance of the English language in the person applying to be naturalized required the oath to be administered by an interpreter?

A. Such instances are frequent; nearly one-half of the applications previous to and at the last election were of this character.

Thomas Jefferson Smith, one of the justices of the Marine court in the city of New York, aged thirty-nine years, being duly sworn, answered thus:

I think I have naturalized somewhere about two thousand persons; may be many more, and may be some less. No person should be naturalized who cannot understand and speak the English language. As the law now stands, the subject of character appears to be very easily proved, and no doubt in many cases persons prove that they have good moral characters, and are attached to the principles of the Constitution of the United States, when they are not of such character as sworn to.

The question as to whether an applicant is well disposed to the good order and happiness of the United States, should not be a matter of proof by witness, as but few witnesses can tell what a man is disposed to, but should be sworn to by himself.

## RIOTS AND VIOLENCE AT THE POLLS.

Heron R. Bannett, of New York, testified as follows :

As to instances of violence : In the spring of 1844, at the polls of the fifth district, in the sixteenth ward, where I was an inspector of elections. The windows were smashed, and doors broken in, stones were thrown in, and the mob broke in, so that we had to seize the ballot boxes and retreat. Order was finally restored, but not before four or five men were badly wounded ; one of whom, I think, died shortly afterwards from the wounds received on the occasion. It was dangerous that afternoon to come to the polls to vote, and many who were entitled did not come. The fall previous, there were riots at the same polls, and also in the spring of 1843. The contest in these cases was between the foreign and American population. There appeared to be a regular organized mob, who, if they came across a man opposed to them in politics, would beat him. Mayor Morris came up and addressed them, but I think his address did not tend to allay the tumult. This last occurrence was in the spring of 1843.

Marcellus Eells, of New York, testified as follows :

As to violence, I recollect, at a poll in the twelfth ward in this city, as many as thirty persons being violently beaten during the day of the election, by a band of Irishmen collected there, who were subsequently rewarded by a free distribution of liquor by a political party ; the leader of which gang has since held lucrative political offices at different times. One person attacked, (namely : Regal P. Ward,) now an assistant alderman, having voted, at a whoop, the usual signal of these foreigners, was pursued by them, and dragged from a house in which he had taken refuge. He was held forcibly by them, and beaten until he was insensible. There were about fifty persons in this gang. He fell insensible upon the ground, and was there stamped upon until his features were scarcely distinguishable. At another time, Alderman Jarvis, of the same ward, was beset in a similar manner by a body of foreigners, and seriously injured. I saw a person named Bacon, who was seized at the ballot box when about to vote, and there violently beaten. In an attempt to protect this individual, one of the inspectors was forced through one of the windows.

## NUMBER NATURALIZED AT NEW YORK.

Abraham Asten, Clerk of the Marine court, furnished the following statistics of the naturalization business of that court :

*The number naturalized from 1st October, of each of the last four years, up to and including the days of the next subsequent election.*

|                              |     |                              |       |
|------------------------------|-----|------------------------------|-------|
| 1841 : Not minors, . . . . . | 195 | 1843 : Not minors, . . . . . | 78    |
| Minors, . . . . .            | 41  | Minors, . . . . .            | 35    |
| Total, . . . . .             | 236 | Total, . . . . .             | 113   |
| 1842 : Not minors, . . . . . | 154 | 1844 : Not minors, . . . . . | 831   |
| Minors, . . . . .            | 53  | Minors, . . . . .            | 364   |
| Total, . . . . .             | 207 | Total, . . . . .             | 1,195 |

NOTE.—The election is usually on the 5th November, or thereabouts.

*The total number of persons naturalized in each of the last four years, ending at the fall election.*

|                          |     |                          |       |
|--------------------------|-----|--------------------------|-------|
| 1841 : Not minors, - - - | 620 | 1843 : Not minors, - - - | 311   |
| Minors, - - -            | 170 | Minors, - - -            | 111   |
| Total, - - -             | 790 | Total, - - -             | 422   |
| 1842 : Not minors, - - - | 565 | 1844 : Not minors, - - - | 1,368 |
| Minors, - - -            | 150 | Minors, - - -            | 577   |
| Total, - - -             | 715 | Total, - - -             | 1,945 |

In 331 cases, 78 in all, applicants as well as witnesses, *made their mark.*

*The number naturalized within a fortnight previous to and including the days of the election, for four years past.*

|   | MINORS.     |
|---|-------------|
| From 1st April, 1841, to 13th April, 1841, - - -      | 30          |
| From 20th October, 1841, to 3d November, 1841, - - -  | 36          |
| From 31st March, 1842, to 12th April, 1842, - - -     | 40          |
| From 25th October, 1842, to 8th November, 1842, - - - | 31          |
| From 31st March, 1843, to 13th April, 1843, - - -     | 18          |
| From 25th October, 1843, to 7th November, 1843, - - - | 18          |
| From 26th March, 1844, to 9th April, 1844, - - -      | 127         |
| From 22d October, 1844, to 5th November, 1844, - - -  | 326         |
|   | NOT MINORS. |
| From 1st April, 1841, to 13th April, 1841, - - -      | 200         |
| From 20th October, 1841, to 3d November, 1841, - - -  | 154         |
| From 30th March, 1842, to 12th April, 1842, - - -     | 114         |
| From 25th October, 1842, to 8th November, 1842, - - - | 151         |
| From 31st March, 1843, to 13th April, 1843, - - -     | 40          |
| From 25th October, 1843, to 7th November, 1843, - - - | 50          |
| From 26th March, 1844, to 9th April, 1844, - - -      | 210         |
| From 22d October, 1844, to 5th November, 1844, - - -  | 734         |

*The number of persons naturalized on the first fifteen days in the month of April, 1844.*

|                   |     |
|-------------------|-----|
| Not minors, - - - | 191 |
| Minors, - - -     | 128 |
| Total, - - -      | 319 |

William Latourett swore, in 1832, 1833, and 1834, to sixty-four persons.

From 1828 to 1838, it appears, by the naturalization of minors, that the following named persons swore to the number of applicants set opposite their respective names :

|                           |     |
|---------------------------|-----|
| Francis J. Berrier, - - - | 113 |
| Martin Waters, - - -      | 94  |
| Jotham Peabody, - - -     | 161 |
| George Gausmann, - - -    | 159 |
| Walter F. Osgood, - - -   | 57  |

Andrew Warner, Clerk of the Common Pleas, said :

1. "The number naturalized from the 1st of October, of each of the four years, up to and including the day of the next subsequent election :"

|  |       |
|--|-------|
| October 1, 1841, to November 3, 1841, inclusive, - - - | 527   |
| October 1, 1842, to November 8, 1842, " - - -          | 1,636 |
| October 1, 1843, to November 7, 1843, " - - -          | 188   |
| October 1, 1844, to November 5, 1844, " - - -          | 1,134 |



2. "The total number of persons naturalized in each of the four years last past, ending at the fall election:"

|  |   |       |
|--|---|-------|
| January 1, 1841, to November 3, not including day of election, | - | 474   |
| January 1, 1842, to November 8, do. do.                        | - | 1,889 |
| January 1, 1843, to November 7, do. do.                        | - | 1,512 |
| January 1, 1844, to November 5, do. do.                        | - | 1,380 |

3. "The number naturalized within a fortnight previous to and including the days of the election, for four years past:"

|   |   |       |
|---|---|-------|
| Fortnight previous to election, April, 13, 1841, including day of election, | - | 67    |
| do. do. Nov. 3, 1841, do. do.   | - | 369   |
| do. do. April 12, 1842, do. do.   | - | 540   |
| do. do. Nov. 8, 1842, do. do.   | - | 1,661 |
| do. do. April 11, 1843, do. do.   | - | 1,375 |
| do. do. Nov. 7, 1843, do. do.   | - | 200   |
| do. do. April 9, 1844, do. do.  | - | 292   |
| do. do. Nov. 5, 1844, do. do.   | - | 1,085 |

4. "The number of persons naturalized on the days of the April and November elections for the last four years, and for ten days previous thereto, and five days after:"

|                           |   |   |   |   |   |   |           |
|---------------------------|---|---|---|---|---|---|-----------|
| April 13, 1841, election, | - | - | - | - | - | - | Vacation. |
| November 3, 1841, do.     | - | - | - | - | - | - | 192       |
| April 12, 1842, do.       | - | - | - | - | - | - | 298       |
| November 8, 1842, do.     | - | - | - | - | - | - | 495       |
| April 11, 1843, do.       | - | - | - | - | - | - | 375       |
| November 7, 1843, do.     | - | - | - | - | - | - | 30        |
| April 9, 1844, do.        | - | - | - | - | - | - | 57        |
| November 5, 1844, do.     | - | - | - | - | - | - | 141       |

J. Oakley, Clerk of the Superior court, answered as follows :

From the 1st of October to the 7th of November, 1843, both inclusive, the number of persons naturalized in the Superior court was 242; from the 1st of October to 5th November, 1844, both inclusive, 673; from the 1st May to 7th November, 1843, both inclusive, 249; from the 5th November, 1843, to 5th November, 1844, the latter included, 1,697. This number includes the persons naturalized at the fall election of 1843; and the spring and fall elections of 1844. For a fortnight previous to the fall election of 1843, including the day of election, the number naturalized was 242; for the fortnight previous to the spring election of 1844, including the day of election, 993; for the fortnight previous to the fall election of 1844, including the day of election, 566. The number of persons naturalized in each month, from the 1st May, 1843, to this time, is as follows :

1843: May, 1; June, 2; July, 2; August, none; September, 2; October, none; November, 243; December, none.

1844: January, 1; February, none; March, 49; April, 955; May, 3; June, 1; July, none; August, none; September, 14; October, 426; November, 253; December, 5.

1845: January, none.

The number naturalized on the first fifteen days of the month of April, 1844, were as follows :

On the 1st, 18; 2d, none; 3d, none; 4th, 15; 5th, none; 6th, 95; 7th, none;

8th, 429; 9th, 412; 10th, none; 11th, none; 12th, none; 13th, 1; 14th, none; 15th, none.

The number of persons naturalized for fifteen days before and five days after the 5th of November, 1843, including that day, were as follows:

On the 7th, 241; 9th, 1; on the 7th November, 241; 9th, 1; on the other days, none.

The number naturalized for fifteen days before and five days after the 5th November, 1844, including that day, was as follows:

On the 21st October, 44; 22d, 47; 23d, 29; 24th, 33; 25th, 78; 26th, 83; November 4th, 127; 5th, 117; and the other days, none. I will add, that I am not able to answer as to the number of persons naturalized from the 1st October, 1840, to the 1st of May, 1843; because I was not then clerk of the court; and no register of persons naturalized appears to have been kept previous to the time of my appointment. And on examination of the minutes during that period, I am satisfied that it was not the practice of the clerk in all cases to enter in the minutes the names of persons naturalized. I have therefore no means of ascertaining the fact, except by examining the original papers, which would take more time than can be allowed me. And for the same reason, I cannot answer as to the number of persons naturalized in each of the last four years, ending at the fall election, further than I have already answered.

I would further add, that these calculations have been made with some haste; but I believe them to be correct. I will add, on reflection, that among the persons naturalized on the day of the last fall election, and for some few weeks previous, there was a considerable number who stated themselves to be residents of other counties of this State than the city and county of New York; but the proportion of such persons to the whole number I cannot state.

#### NUMBER NATURALIZED AT PHILADELPHIA.

Joseph S. Cohen, Prothonotary of the Supreme court of Pennsylvania, for the Eastern District, deposed as follows:

I came into office on the 16th of December, 1840. I have no means of knowing accurately the number of naturalizations before that, but presume they were very few. In 1841, there were 10; in 1842, 256; in 1843, 217; in 1844, 916—in four years, a total of 1,399.

Thomas Doyle, Clerk of the General Sessions, at Philadelphia, said:

To the thirty-sixth interrogatory propounded by commissioners, to wit:

“Can you state the number of persons naturalized in the Court of Quarter Sessions in each year, respectively, from the year 1838 to 1844, inclusive?”

He, answering, says:

Yes, sir. In 1838, there were 1,176; in 1839, there were 394; in 1840, 1,755; in 1841, 230; in 1842, 440; in 1843, 252; in 1844, 564—a total, in seven years, of 4,811.

Judge Randall, of the United States District court, said:

I have caused an examination to be made of the number of persons naturalized in the courts of the United States for this district, since the year 1838, and find them to be as follows: In 1838, 2; in 1839, 1; in 1840, 6; in 1841, 7; in 1842, 2; in 1843, 3; in 1844, 61—making a total, in seven years, of 82.

NUMBER NATURALIZED AT NEW ORLEANS.

Needler R. Jennings, being duly sworn, did depose and say: That he is Clerk of the United States District court, for the Eastern District of Louisiana; that, during the past year of 1844, there were 181 persons naturalized in said court, at the following periods, to wit: In the month of January, 4; in February, 2; in March, 6; in April, 7; in May, 4; in June, 7; in September, 6; in October, 95; in November, 49; in December, 1—total, 181. That during the same year, in said court, there were 112 declarations of intention to become citizens made by foreigners, at the following periods, to wit: In the month of January, 1; in February, 2; in March, 3; in April, 3; in May, 2; in June, 2; in July, 2; in August, 8; in September, 3; in October, 49; in November, 26; in December, 11—total, 112.

*Clerk's Office, Circuit Court of the United States, Fifth Circuit, and District of Louisiana:*

I certify the foregoing to be a correct statement of the number of declarations of intention and certificates of naturalization issued from my office during the year 1844, viz.: 88 declarations of intention, and 89 certificates of naturalization, during the period above stated.

Witness my hand and the seal of the court, at New Orleans, this 3d of May, A. D. 1845.

For DUNCAN W. HENNEN, Clerk,  
J. McCULLOCH, Deputy Clerk.

*State of Louisiana, City Court of the City of Lafayette:*

I, Edmond Burthe, judge of the City court of the city of Lafayette, do hereby certify, that, from the examination of the minutes of this court, it results:

That in the year 1841, B. C. Elliott being judge, 11 aliens were admitted citizens of the United States.

That in the year 1842, B. C. Elliott, judge, 13 aliens were admitted citizens of the United States.

That in the year 1843, the same B. C. Elliott, judge, 1,798 aliens were admitted citizens of the United States.

That in the year 1844, J. N. Carrigan being then judge, from the 18th April to the 30th December, 333 aliens were admitted citizens of the United States; and that 130 aliens made the declaration required by law of their intention to become citizens of the United States.

In testimony whereof, I have hereunto set my hand and affixed the seal of the court, this 28th day of April, A. D. 1845.

EDMOND BURTHER, Judge.

John L. Lewis, being duly sworn, did depose and say, that he is now, and has been for a number of years past, Clerk of the First Judicial District court of the State of Louisiana, held in the city of New Orleans.

That from the records of said court it appears, that in the past year of 1844 there were 187 certificates of naturalization granted to foreigners by said court, and that 28 declarations of intention to become citizens were made before the same, at the following periods, to wit:

Certificates of naturalization granted: In the month of January, 1; in February, 5; in March, 9; in April, 2; in May, 2; in June, 8; in July, 3; in August, 15; in September, 6; in October, 112; in November, 22; in December, 2—total, 187.

Declarations of intention to become citizens: In the month of February, 1; in March, 2; in April, 1; in May, 1; in June, 2; in August, 3; in September, 1; in October, 11; in November, 4; in December, 2—total, 28.

Victor Sere, being duly sworn, did depose and say, that he is the Deputy Clerk of the Parish court, in and for the parish of Orleans.

That from the records of said court it appears, that in the past year, 1844, there were 31 certificates of naturalization granted to foreigners, and 107 declarations of intention to become citizens, entered before said court at the following periods, to wit:

Certificates of naturalization granted: In the month of February, 1; in March, 5; in May, 1; in June, 2; in July, 9; in August, 7; in September, 5; in November, 1—total, 31.

Declarations entered: In the month of January, 2; in March, 1; in April, 1; in May, 3; in June, 1; in July, 39; in August, 29; in September, 23; in November, 6; in December, 2—total, 107.

That during the present year of 1845, up to the present time, there have been 5 certificates of naturalization issued, and 21 declarations of intention to become citizens, entered in said court.

Edward Gardere, Esq., being duly sworn, did depose and say, that he is at this present time, and has been for the last year, Clerk of the Commercial court of New Orleans. That in the year 1844 there were 58 foreigners naturalized by said court, at the following periods, to wit:

|   |   |   |   |   |   |   |   |   |    |
|---|---|---|---|---|---|---|---|---|----|
| In the month of March, 1844,              | - | - | - | - | - | - | - | - | 1  |
| In the month of July, 1844,               | - | - | - | - | - | - | - | - | 2  |
| In the month of October, 1844,            | - | - | - | - | - | - | - | - | 10 |
| In the first five days of November, 1844, | - | - | - | - | - | - | - | - | 45 |
| Total,                                    | - | - | - | - | - | - | - | - | 58 |

Number of persons naturalized in the District and Circuit courts of the United States, from February 5, 1823, to January 1, 1845, 171.

GEORGE W. MORTON, Deputy Clerk.

## CHAPTER XXII.

### QUALIFICATIONS OF ELECTORS IN TERRITORIES.

LEGISLATION in relation to the qualifications of electors in the Territories of the United States, has not been uniform. The celebrated ordinance of 1787, establishing the Northwest Territory, which was passed prior to the formation of the Federal Government, provided that when the Territory should have five thousand *male inhabitants* over

twenty-one years of age, it should have a legislative government, and that the right of suffrage should belong to all who were citizens of one of the United States, and had certain property qualifications; and that provision was successively extended to the different Territories organized out of the northwestern Territory. It was also in substance extended to the Territories southwest of the Ohio, not in precisely the same form, but by a general provision that the inhabitants of the southwestern Territory should be entitled to all the right, &c., enjoyed by those of the northwestern Territory under the ordinance of 1787.

A similar provision was inserted in the act organizing the Mississippi Territory in 1798; and the policy of 1787 seems to have been invariably pursued until 1808, when an act was passed restricting the elective franchise of that Territory to those who were citizens of the United States and possessed certain property qualifications.

In 1812, on admitting Illinois into the second grade of Territorial Governments, the act provided that every *free white* male person, having attained the age of twenty-one, paid a territorial or county tax, and resided one year in the Territory, should enjoy the right of suffrage. The act organizing Missouri, passed the same year, contained a similar provision. In 1817, the Territory of Alabama was organized, and in that instance the precedent of 1812 was disregarded and that of 1787 followed. Arkansas was organized in 1819, and the precedent of 1812 was again adopted. In 1836, the elective franchise in Wisconsin was made the same as that of Missouri in 1812, except that the freehold qualification was not required. The same course was pursued with Iowa in 1838. The act organizing Minnesota, passed 1849, departed again from the precedent of 1812, which had with a single modification been followed in 1819, '36 and '38, by adding the following words to the proviso: "and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act." The acts organizing Oregon and Washington Territories contain similar provisions to that of Minnesota. Those establishing Utah and New Mexico contain the Missouri provision, and confine the elective franchise to citizens of the United States.

During the pendency of the bill to establish the Territorial Governments of Kansas and Nebraska, John M. Clayton introduced, in the Senate, an amendment, confining the elective franchise in those Territories to citizens of the United States, which gave rise to an animated debate, as will be seen by reference to the *Appendix Congressional Globe* of 1853 -54, p. 297. The amendment was to strike out the following:—

"And those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act."

So that the proviso will read:

*"Provided, That the rights of suffrage and of holding office shall be exercised only by citizens of the United States."*

John Pettit, of Indiana, opposed this amendment, and among other remarks, made the following:

Mr. President, in my views of propriety and policy, I shall be constrained to vote against the amendment, for the few brief reasons which I shall assign. In my State we recently held a constitutional convention, and put into it a clause the same in substance, if not in words, as that which it is now proposed to strike out of this bill. We did it after the fullest consideration and the fullest discussion. Allow me to say that I believe no injury has arisen, and none will arise from it; but, on the contrary, very great harmonizing, salutary results are produced by it. It does not follow at all that a man who has come from abroad, from Ireland, England, France, or Germany, understands any better our institutions or his local wants because he has taken two oaths, as is required in the bill as it stands, than though he had taken but one oath. But, sir, in a broader and more comprehensive view of the subject, I am in favor of the provision as it stands in the bill.

I live in the midst of a dense foreign population—Irish and German—and I now say that I believe no such thing can be found on record as a foreign party anywhere got up where they have declared, "we are foreigners; we will vote thus because we are foreigners." On the contrary, when they come here, they range themselves directly under the Whig or Democratic parties—mostly, I grant you, under the Democratic party, for they come here with their sympathies and their feelings with that party of liberty contradistinguished from the treatment they have had at home. They have been led to believe before they come here, and immediately on coming here they see the broad distinction between the parties—the one going for the utmost liberty that man can rightfully enjoy, the other voting to restrict, control and limit their liberty. They find immediately which party it is that has gone for the earliest naturalization, and they know almost instinctively who it was promulgated and advocated the alien and sedition laws. They know the party of liberty, of progress, and of freedom, and they know the party that opposes and grudges every right they receive and have ever enjoyed.

I am against the amendment of the Senator of Delaware. It proposes to exclude from suffrage and from office a large proportion of voters in several of the western States, who are, at least, so far fellow-citizens with us that we conceive ourselves bound to interfere for their protection against aggression in foreign lands. They are clothed, as the Secretary of State has said, with American nationality, and certainly so far citizens as justify and require their full admission to equal privileges and rights in every respect, with our own native born citizens in the Territories. I hope the amendment will be rejected.

David R. Atchison, of Missouri, said—

Now, sir, in the State of Missouri—and that is one of the northwestern States, although it is generally, from its institutions, classed as one of the southwestern States—no person can exercise the right of suffrage or hold office unless he be a citizen of the United States; and, with due deference, I think it a good rule to apply to all the Territories of this Union.

It is not that I fear the votes of the foreign population upon the question of slavery in the Territories of Nebraska and Kansas; but it is upon this great principle, that none but American citizens—whether they be native born, or whether the right of citizenship be conferred upon them by residence in this country of their adoption—should exercise the right of suffrage and the right of holding office, either in the States or Territories.

The question being taken, the amendment was agreed to—yeas, 23; nays, 21; as follows:

**Yeas**—Messrs. Adams, Atchison, Badger, Bell, Benjamin, Brodhead, Brown, Butler, Clay, Clayton, Dawson, Dixon, Evans, Fitzpatrick, Houston, Hunter, Johnson, Jones of Tennessee, Mason, Morton, Pratt, Sebastian, and Slidell—23.

**Nays**—Messrs. Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Fish, Foot, Gwin, Hamlin, Jones of Iowa, Norris, Pettit, Seward, Shields, Smith, Stuart, Sumner, Toucey, Wade, Walker, and Williams—21.

The House of Representatives passed the bill, but rejected Mr. Clayton's amendment. When it again came up for consideration in the Senate, James A. Pearce, of Maryland, offered to amend the proviso in the fifth section, which was as follows:

*"Provided, That the rights of suffrage, and of holding office shall be exercised only by citizens of the United States, and those who have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act,"—*

By striking out these words:

*"And those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act."*

Mr. Pearce made an able speech in support of his proposition, from which the following extracts are taken:

For my own part, I cannot conceive any reason why this privilege, which peculiarly belongs to citizenship, should be extended to those who are not citizens. It is a part of political sovereignty. It seems to me to be the essential duty of a citizen, but of no one else, to exercise that power. It is at war with the principles of all government, it seems to me, to confer upon those who are not citizens, the power to control the government, through the right of suffrage. That right belongs only to those who are members of the body-politic, and no foreigner can be so until he has, by naturalization, entered into the compact which constitutes him one of the political community.

Richard Brodhead, of Pennsylvania, followed, in a speech of some length, in support of the amendment. The following are extracts from his speech:

The honorable senator from Maryland has what is called the Clayton amendment, which restricts the right to vote to those who are citizens, either native born or those who have become such under our naturalization laws, and as I voted for it when the

bill was before the Senate upon another occasion, and have seen no reason for changing my vote, I will do so again.

Up to the present time foreigners came here to be Americanized, not to Americanize us. But, I confess, I have witnessed some recent demonstrations that do not please me. The movements of Kossuth in this country did him no credit, and since he returned, he has issued an address to the German people of this country to take action against the Senate of the United States for rejecting a gentleman nominated by the President for Consul at London. German meetings have been held in different parts of the United States to denounce those who support this bill, and I believe they went so far in some places as to burn the honorable senator from Illinois in effigy.

Those who set themselves up for leaders among them, who claim to be the special guardians of their rights, who pretend to have the same religion that they have, that they may sell them out in election times, either for money or office, are their worst enemies. I have seen a good many claim office on the allegation that they influenced this or that portion of the alien vote, and threaten those in power with the displeasure of the voters of foreign birth if they were not gratified.

David R. Atchison, of Missouri, said—

Mr. President, I have voted for the amendment to the Senate bill proposed by the senator from Delaware; but I must say now that I concur with the senator from Georgia. I have not, however, changed my opinions as to the policy of the amendment. I still entertain the opinions I did then, that none but American citizens, native born or naturalized, should be entitled to the right of suffrage, or to hold office either in the States or Territories of this country.

As I said before, I believe that, as a matter of policy, none but American citizens, native born or naturalized, should be entitled to vote or to hold office in this country; but still I am willing to yield this; and as a southern man, as representing a State more deeply interested in the passage of this bill, perhaps, than any other State in the Union, I say that, practically, it will have no effect upon the institutions of these Territories. The foreign population are not the pioneers; they are not the first to enter the territories of the United States. They are not the first to encounter the perils, and toils, and the dangers of settling a new territory. They follow in the footsteps of the pioneers, and inhabit the cities and villages. They are generally not the agricultural portion of the community. The great mass of them are traders, mechanics, paupers, and peddlers.

Geo. E. Badger, of North Carolina, said:—

I voted for this amendment when it was proposed by my friend from Delaware, to the bill which passed the Senate. I thought the amendment right then; I think it right now; and I have listened to discover what reason there is why I should now vote against an amendment which I before voted for, because I thought it right, and which I still think to be right.

Now, sir, what is the amendment? Is it unjust or unfair to anybody? It is to allow the citizens of the United States in these Territories to elect the legislative body, and then to determine upon the domestic institutions of the Territories.



I am not willing to leave it to those who are not citizens of the United States, to men who are poured fresh from the workhouses, from the ignorance, from the filth, from the debasement, which mark the lowest orders in the different countries of Europe, just landed upon our soil, ignorant of our institutions; ignorant, many of them, of every thing except the performance of some mechanical operation in a particular trade, or except, perhaps, that one knows how to hoe, and one how to delve; men who can neither read nor write; men whose associations have brought them into no contact, by which the understanding has been developed; men who have no sympathies with us, or our country; men who are just landed, finding here a refuge from oppression, if you please, or from punishment, if you please, or from starvation, if you please, to determine the political condition of a Territory, which is hereafter to become a State of this Union.

A. R. Butler, of South Carolina, spoke at length, concluding as follows:—

My objection is broadly to the policy of devolving upon unnaturalized persons coming from abroad the right of shaping our territorial governments. I do not know what course I might have taken if this were a new question; but I have considered the subject, and I have brought my mind to this conclusion; I do not say that my objections are so insuperable that they may not be overcome; but at present I retain them, and they are very strong upon the subject.

Thomas G. Pratt, of Maryland, said:—

It is not for Congress, Mr. President, unless you can amend your Constitution, to initiate this proceeding. The remedy is with the people themselves. We find that these separate foreign political organizations throughout the country, superinduced or not by the course indicated by the senator from South Carolina, are raising an American spirit in the land, which is to answer the purpose of getting rid of this stain upon our escutcheon. It must be public opinion, sir, the public opinion of the native and naturalized citizens of this country, which is to cure this evil; and it cannot be cured by putting the amendment on the bill which is now upon your table. I believe it will be cured. The spirit is now abroad. The people of this country, native and naturalized, are not willing to see their birthright subject to the foreign importations of those to whom the senator has alluded, or of others who may come here voluntarily for their own interest.

Robert M. T. Hunter, of Virginia, also thus expressed himself:—

Mr. President, as an abstract question, I certainly should prefer the bill as it went from the Senate; that is, with the so-called Clayton amendment, to that which has been returned to us from the House, the two bills differing only, as I understand, in that respect. If I had to frame a bill myself, and to consult only my own judgment in reference to it, I certainly should prefer the Senate bill to that which is now under consideration.

I shall vote against the amendment; although I say, if I had nothing to consult but the simple suggestions of my own judgment, I should vote for it. But, under existing circumstances, I do not feel at liberty to peril the bill by affixing to it such an amendment. I shall therefore vote against it.

John M. Clayton said:—

Sir, I am no enemy to foreigners; but I am a true American, and prefer that name and rights which belong to that character to the name of an Irishman, or a German, or any other foreigner under heaven. I scorn the low and contemptible appeals which are constantly made by demagogues to win the votes of foreigners, by flattering them with the belief that they are of more importance here than our native citizens. I place the naturalized foreigner on an equal footing in the exercise of the sacred right of voting with those who, like myself, were born Americans. When he has served his apprenticeship here, to learn the science of self-government, during the period prescribed by our naturalization laws, and become Americanized, I will respect him as an American citizen. But I will never consent to cheapen that right by conferring it on all the foreigners as soon as they land on our shores. It would be as unjust to the intelligent naturalized citizen as to the native. I would ever prefer the claims to public office of a son of the soil in his native country over those of any foreigner, unless that foreigner had superior merits or qualifications for the office. The children of the foreigners born in these States or Territories, are as justly entitled, in my opinion, to honors and offices here as any other native citizen, and no more.

I shall not argue such a point as that, but I shall now dismiss the subject with the remark, that the influence of aliens in this country has increased, is increasing, and ought to be diminished, and that nothing short of the combined influence of all true Americans, both native and naturalized, can arrest the mischiefs, which demagogues who pander to the feelings and passions of foreigners, not understanding our system of government, seek to entail upon us by cheapening the rights and degrading the name of an American citizen, and thus striking at the very foundation of the great principle of self-government in this country.

Albert G. Brown, of Mississippi, said:

I ask Senators to pause before they legislate to give foreigners rights which are denied to our own citizens upon American soil. How will this act operate practically, if you pass it in the words in which it now stands? The officers commanding your army, the soldiers who are serving under your banner, and now are placed upon your frontiers to defend your women and children from the tomahawk of the savage, will be denied the elective franchise, while the thousands and tens of thousands who are pouring upon our shores from every part of God's habitable globe, will be entitled to that sacred privilege. Why, sir, if Santa Anna should be expelled from Mexico to-morrow, as he may be, and should take up his residence in one of these territories, he may vote the day after he gets there, if this bill passes; and Winfield Scott, whose name is emblazoned on every page of his country's history, and whose impress is on every battlefield from the St. Lawrence to the city of Mexico, if he were there stationed at the order of the President, would not be allowed the same privilege. I ask honorable Senators if it is not so, that by the proposed legislation we are about to say to the General-in-Chief of the American army, you shall not vote in a territory conquered by your arms; and to the deserter from the enemy's camp, you may vote. Shall we do this? Shall we say to the venerable soldier who has served his country for forty years, who has fought more battles, and fought them better than any living man, shall we say to Winfield Scott, who, whatever may be his faults as a politician, deserves his country's gratitude, you shall not vote in Kansas or Nebraska; and then shall we say to the

outcasts of the Old World, to the wanderers and vagabonds, to the prison birds and spawn of infamy, you may vote? I hope not. Let no man charge that I am hostile to foreigners. We invite them to our shores, and I would receive them kindly and treat them generously; but when I am asked to stand up in the American Senate and give to foreigners the right of suffrage, and in the same breath deny it to American citizens, I say plainly I cannot do it. I have heard before of putting foreigners on equal footing with Americans, but this is the first time when I have been called upon to give them an advantage. And what is the reason assigned? Look at the bill. No officer or soldier of the army shall be allowed to vote in the territory by reason of his being on service there. It is sufficient for his exclusion from the polls that he bears his country's arms, that he encounters the dangers of the camp, and the perils of the battle-field. But a foreigner—what of him? He may spurn your arms, insult your flag, spit upon your laws; and then says he means to become a citizen and swears to support your Constitution, and you let him vote. A thousand soldiers, with Scott or Wool at their head, may be ordered to Nebraska the day after this bill passes, and not one of them can vote. By reason of being on service in the territory they are excluded; while a thousand foreigners, just landed, may vote, and the next day abandon the territory forever.

J. P. Benjamin, of Louisiana, said:

The amendment now before the Senate, offered by the Senator from Maryland, commends itself to my deliberate judgment.

William H. Seward was opposed to the amendment. He said:

Certainly, I find nothing to win my favor toward the bill in the proposition of the Senator from Maryland, (Mr. Pearce,) to restore the Clayton amendment, which was struck out in the House of Representatives. So far from voting for that proposition, I shall vote against it now, as I did when it was under consideration before, in accordance with the opinion adopted as early as any political opinions I ever had, and cherished as long, that the right of suffrage is not a mere conventional right, but an inherent natural right, of which no government can rightly deprive any adult man who is subject to its authority, and obligated to its support.

James M. Mason, of Virginia, said:

I am one of those who regret very much that a majority of the American people—so far as opinion is to be gathered from the vote of their representatives—considers it wise or expedient to grant to any others than citizens a participation in political power.

Sir, I repeat it again, although I know but little, because it has not come within my way to know much, of this foreign population which is streaming on our shores. I do know something of human nature, and of the sentiments of enlightened and intelligent men; and I say that the sober sense of that population, when it is brought to reflect upon, ought to satisfy them that before they become American citizens they should understand something of American institutions.

Mr. Mallory, of Florida, said:

Mr President, I regard the pending amendment of the honorable Senator from Delaware, (Mr. Clayton,) now offered by the Senator from Maryland, (Mr. Pearce,) as important, and eminently proper. From the infant days of our country to the present

moment, our legislation for naturalizing and preparing the immigrant, by a residence sufficient to acquaint him with our language, laws, and institutions, for the duties of a citizen, have gone hand in hand with our legislation for his welfare, equality, and independence.

The period of probation has varied with succeeding administrations; but the necessity and propriety of requiring the foreigner, who seeks a home among us, and upon equal terms with ourselves, to reside with us some time before attaining this equality, has ever been maintained.

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The honorable Senator from New York, (Mr. Seward,) assumed, in reference to this question, that the right of suffrage is an inherent right in man, wherever he may reside. That was his language, as I took it down at the time, and I believe I state it correctly. Why, what a monstrous doctrine is that! Destitute alike of authority or principle on which it may rest, its pernicious effect is, that it tends to denationalize your country. The moment you admit the right of citizens of another country, or of those who are not citizens of ours, to assume equal political rights with our own citizens, you take a long step in the progress to denationalize. Sir, I am neither a cosmopolite nor a socialist. I believe the advancement of civilization requires that men should be arrayed in different nations, under different forms of government. I believe that as firmly as I believe that the advancement of civilization, and the welfare and happiness of humanity require the division of nations into families.

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Well, sir, do you not strike at national existence; do you not denationalize your country, when you enact, that because the man who has come here to-day declares that he means to become a citizen, he shall exercise the same political privileges and rights as if he were a citizen? Why, sir, civil rights in the general are very much the same to the citizen and to the mere resident or foreigner. It is political rights mainly (which are the sole guardians of civil rights) that every well-organized State necessarily confines to its own citizens.

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Sir, I consider this no question of policy; I consider it a question of principle, lying at the very foundation of our government. I consider that you denationalize your country when you authorize a man who is not a citizen to vote. If the period for which your laws require that a foreigner shall reside here for the purpose of becoming naturalized be too long, alter it; but do not attempt to evade that law, do not attempt to take this first step towards cosmopolitanism, by authorizing men who have no knowledge of the working of your institutions, who are not conversant, from previous education and habits, with the practical application of the principles of liberty to the organization of government, to mould the institutions of your future States. Receive them cheerfully and cordially; instruct, Americanize them; and then, but not till then, confer upon them the highest right of citizenship—a participation in the government of the country.

\* \* \* \* \*

I consider the principle of this amendment absolutely necessary for the permanence of the institutions of this country, and therefore I can record my vote for no bill which authorizes a right of voting to others than citizens of the United States.

Notwithstanding this expression of opinion in favor of the amendment, it now received but *seven* votes, viz.: Messrs. Bayard, Bell, Brodhead, Brown, Clayton, Pearce and Thompson; while among the forty-one vot-

ing in the negative were Messrs. Atchison, Benjamin, Butler, Clay, Dawson, Fitzpatrick, Hunter, Johnson, Jones of Tennessee, Mason, Morton, Pratt, Sebastian and Slidell, all of whom had before voted for it, and now only changed, as many of them stated, because they were convinced it would not pass the House and might endanger the final success of the whole bill. See *Appendix Congressional Globe*, vol. xxix., p. 755. Subsequent to the rejection of the amendment, Salmon P. Chase, of Ohio, congratulated the Senate on its rejection. He said:—

“The rejection of the amendment upon which we have just voted, is a great triumph of principle, not the less valuable because coerced from its opponents by a necessity to which they have yielded so reluctantly. The bill at last concedes a full, ample, and complete recognition in these new Territories of the right of immigrants from the old world to an equal participation with native born in the organization and control of the territorial governments.”

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## CHAPTER XXIII.

### PRE-EMPTION RIGHT TO PUBLIC LANDS.

THE system of pre-emption right granted to settlers on public lands commenced in 1830. The first act passed by Congress on the subject was approved May 29, 1830; but it seems to have been doubted by the Attorney General of the United States, whether its provisions extended to aliens. He however arrived finally at the conclusion that they were entitled to its benefits. When the subject came up again in Congress, at the second session of the twenty-fifth Congress, it accordingly gave rise to a long debate, and William M. Merrick, of Maryland, recently appointed a judge in the District of Columbia, by President Pierce, offered the following, with the express view of prohibiting aliens to enjoy the pre-emption right:

“That the right of pre-emption granted by this act, or the act hereby revived, shall not accrue to any other persons than those who were, on the first day of December, 1837, citizens of the United States; and such citizenship shall in all cases be established by legal and competent testimony, to the satisfaction of the Register and Receiver of the land district in which the lands may lie, prior to any entry thereof, by virtue of the provisions of this act.”

This proposition was debated by Messrs. Henry Clay, C. C. Clay, Buchanan, Benton, Norvell, Walker, Webster, and others. See *Congressional Globe*, *Appendix*, 1837–38, p. 128 to 139.

Robert J. Walker said :

It is not only excluding aliens that have been driven by oppression to seek a shelter among us, but would also prevent those who voluntarily sought homes in the country of their adoption. It savored too much of the old alien and sedition laws to meet his encouragement. He pointed to cases where the bounty of the government had been extended to foreigners.

John Norvell, of Michigan, among other things, said :—

He considered the proposition an attack upon the new States. If the honorable senator from Maryland did not choose to allow these foreigners to come and settle on the soil of Maryland, he begged him at least to suffer the people of Michigan to receive them. They were among her best and most useful inhabitants. They would not take the trouble to come from Europe to purchase and pay for lands, unless they meant to become permanent citizens, the parents of future native Americans, identified with the soil, the advantages, the perils, and the glories of the country.

C. C. Clay, of Alabama, spoke at length against the proposition offered by the senator from Maryland, urging its rejection, and expressing the earnest hope that Congress would not depart from the liberal and humane policy which had heretofore characterized its legislation.

Thomas H. Benton said :

No law had yet excluded aliens from the acquisition of a pre-emption right, and he was entirely opposed to commencing a system of legislation which was to effect the property rights of the aliens who came to our country to make it their home. Political rights rested on a different basis. They involved the management of the government. But the acquisition of property was another affair. It involved no question but that of a subsistence, the support, and comfortable living of the alien and his family.

The senator from Kentucky (Mr. Clay) has thanked the senator from Maryland for bringing forward this amendment; and I will thank him also for it. He shall receive, what rarely occurs in this chamber, thanks from both sides of the House.

Wm. M. Merrick, of Maryland, the mover, said :—

The amendment I have offered proposes so to modify the bill as to limit the grant of this bounty to our own *citizens*; to exclude from the immense advantages of this law and this policy (for remember, it is avowed on the other side that this is to be the settled policy of the government, and other similar laws are to be passed continually hereafter) all aliens, all who are neither native nor naturalized citizens of the United States. Between the native and *naturalized citizen* I propose to make no distinction in this respect; but I desire, while you are about to deal out the property of the American citizens in bounty and gratuities, that you should confine your liberality in disposing of their means to your own people. What, sir, has been the chief argument urged in favor of the passage of this bill? Was it and is it not, that you thereby give to the industrious and honest and enterprising poor man, who owns no land, and has not the means of purchasing in the old settled portions of the country, an opportunity of acquiring a home, and comfort and independence for himself and family? And will you, can you, while you use this argument, exclude our own citizens from the advantages thus speciously held out, by letting loose, as competitors with them, the hordes of

European and other foreign vagrants, knaves and paupers; and will not the poor man, the honest, virtuous, and industrious poor man of this country, be effectually excluded from the vast benefits and advantages of this and similar laws, if you reject the amendment I have offered? Yes, sir, they will be excluded by the pre-occupancy of knaves and paupers of the old world. Already this description of persons are flocking in most pernicious herds to this country; let it once be known that they are admitted to the free and full enjoyment of the advantages of these pre-emption laws; that they are authorized by Congress to come in any numbers, and seize upon the inheritance of the American people, and the character of our frontier population will be sadly changed. No longer shall we find our frontier, as it extends farther and farther west, peopled by brave and hardy and patriotic yeomanry. That which has hitherto been the bulwark, may become the scourge of the country. You will have there a vicious, corrupt, and debased swarm of outcasts from Europe; and the poor but honest and proud-hearted American freeman will rather die in poverty and want, than dwell among such people. No, sir, he will never go among them; and you exclude him as effectually, by refusing to shut the door against such alien intruders, as if you were to proscribe him by name in your statute. Make the professions I have heard good; so frame this bill in *fact* to enable the meritorious poor men of our own country who have them not, to acquire homes and comfort and independence for themselves and families, and my heart will be with you; at all events, bestow not the property of the citizens of this Union in bounties upon aliens, who owe you no allegiance, who have no sympathies for, no ties to bind them to you, but who are from habit and education hostile to all those institutions so dear to this republican people. Sir, so to bestow this property, to pass this bill as it now stands, without the amendment, will be an outrage upon the rights as well as the feelings of the American people.

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I make no special or particular opposition to foreigners by the amendment offered; that amendment only goes to exclude persons *not naturalized* from the bounty, large bounty, of the government, which, I repeat it, sir, if granted at all, can be granted, with color of justice and right, only to such *citizens* as may be settlers on these lands. Foreigners who may come here, are left to the enjoyment of all rights under pre-existing laws, and according to the pre-existing policy of the country. They will have the same right that I myself have, or the people whom I in part represent on this floor, to attend the sales of government land, and there purchase at open auction, or acquire by private entry, lands liable to be taken in that way, in such States as please to allow those who owe them no allegiance by nature or otherwise, to become the owners of the soil. The wisdom of that policy I leave to the consideration of the States which have adopted it; but I never can consent to bestow the property of the people of Maryland, and of the Union, as a bounty upon *aliens*.

This policy originated with the act, now attempted to be revived, of 1830; and so obvious was the propriety and justice of excluding aliens from the benefit of the provisions of that law, that even the gentlemen's own friends, the very officer to whom was confided the administration of the law, doubted and questioned, and well might, whether these people were embraced within its spirit; whether Congress could possibly have intended to extend its provisions to aliens. He, sir, questioned and well questioned, whether such could be the true intention of Congress; and so strong were his doubts, that they could not be quieted without consulting the law officer of the government, the Attorney General. The opinion of this last mentioned official personage I now hold in my hand, sir. It is unnecessary to read it; but the conclusion to which he comes is, that *aliens*, not being excluded in terms, and the words of the law being general, all per-

sons, *aliens* as well as *citizens*, must be admitted to all the advantages granted by it. It is plain, then, it has not been heretofore considered the settled policy of the government to grant domain as a gratuity to intruders from foreign countries. Strange, indeed, in the present condition of this country, would be such a policy; and still more strange would it be if the Senate now reject the amendment made, under consideration. It is time to check this evil; it is pregnant with danger; it is pregnant with wrong and injustice. I trust, sir, the Senate will not refuse to adopt the amendment; but that, by ingrafting it on the bill, which it is easy to foresee will pass this body in some shape, they will prove to the country that our own citizens, whose property we are disposing of, are still deemed worthy of a preference, in the distribution, over strangers and aliens.

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I desire, Mr. President, to make a single remark in reply to the honorable Senator from Pennsylvania, (Mr. Buchanan.) That Senator, in announcing briefly his opposition to the amendment before the Senate, remarked that there seemed to be an extraordinary spirit of opposition to foreigners, manifesting itself in the country. I think, on the contrary, there is a morbid affection manifested here and elsewhere for foreigners and aliens. The Senator observed, Mr. President, he might be allowed to be somewhat sensitive upon such a subject, as he himself was the son of a foreigner, who was afterwards naturalized. Sir, allow me to tell the Senator, in this respect we are alike; I too, sir, am the son of a foreigner, who became a naturalized citizen; and yet, sir, I love my own native country, and my fellow-citizens, *better* than foreigners. I have been thanked too, sir, by the honorable Senator over the way, (Mr. Benton,) for introducing the amendment; and the intimation was that I, and those who act with me, were to be held to account somewhere for the course we are pursuing. On my soul, sir, the Senator is heartily welcome to all the advantages he can gain by the amendment I have the honor to submit. I have discharged my duty, sir, to the people of Maryland, who sent me here, and the people of the Union, all of whom have a common interest with us in the question, by presenting the amendment, and I am ready and willing at any and all times, to meet all the consequences, and all the responsibility, of going for my own country, and my fellow-citizens, *native* and *naturalized*, against *aliens*.

R. M. Young, of Illinois, said :

The object of this amendment of the honorable Senator from Maryland, (Mr. Merri-  
 rick,) is to exclude foreigners not naturalized from the advantages held out by this bill to native citizens, and to such as have been naturalized. I, sir, can never consent to this distinction. By the constitution and laws of Illinois, the State of my adoption, foreigners may vote, they may be elected to offices of the most important character, and are made capable of purchasing, holding, enjoying, and again transferring real estate, by will or otherwise. Yes, Mr. President, I have seen a foreigner, not naturalized, a member of our State Legislature, enjoying all the privileges of a native citizen. Many of them are my acquaintances and friends, and I cannot vote against them. I hope, therefore, Mr. President, that the amendment may not be adopted.

Henry Clay is reported as follows :

"He wished the Senate would go for the interests of the whole Union, as a people, and not so exclusively for the new States. This domain was the public property—the property of the whole people of the United States; and he thanked the Senator from Maryland for introducing a proposition for conferring the bounty of the government to



our own race, instead of holding out a general invitation to all the paupers of all the European governments to come here, and compete with our own honest poor.

Mr. Clay, in reply to Mr. Buchanan, said :

"The honorable Senator from Pennsylvania has alluded eulogistically to foreigners. Does he mean to compare the De Kalbs, the Steubens, the Lafayettes, the Pulaskis, with the hordes of foreign paupers that are constantly flooding our shores? There were other foreigners who mingled in our revolutionary struggle, but on the other side, the Hessians,—and can they be compared with those gallant men who came here to aid in the cause of struggling liberty? He thought this government had been quite as liberal in its policy towards foreigners, as was proper or desirable; and no Senator would vote *against* the proposition of the Senator from Maryland, with more pleasure than that with which he would vote *for* it."

James Buchanan said :

This amendment proposed to make invidious distinction, which had never been made heretofore in our legislation, against foreigners who had settled upon the public lands, and had not been naturalized prior to the first day of December last. Whilst it granted pre-emptions in such cases to our own citizens, it excluded these foreigners. Why had this change been proposed in our settled policy? He had observed with regret, that attempts were now extensively making throughout the country, to excite what was called a native American feeling against those who had come from a foreign land to participate in the blessings of our free Constitution. Such a feeling was unjust—it was ungrateful. In the darkest days of the revolution, who had assisted us in fighting our battles, and achieving our independence? Foreigners, yes, sir, foreigners. He would not say, for he did not believe, that our independence could not have been established without their aid; but he would say the struggle would have been longer and more doubtful. After the revolution, immigration had been encouraged by our policy. Throughout the long and bloody wars in Europe which had followed the French revolution, this country had ever been an asylum for the oppressed of all nations. He trusted that at this late day, the Congress of the United States were not about to establish for the first time, such an odious distinction between one of our citizens who had settled upon the public lands, and his neighbor who had pursued the same course under the faith of your previous policy, merely because that neighbor had not resided long enough in the United States to have become a naturalized citizen. He was himself the son of a naturalized foreigner, and perhaps might feel this distinction the more sensibly on that account.

Mr. B. had been asked by the senator from Kentucky if he would compare the hordes of foreign paupers that are constantly flooding our shores with the De Kalbs, the Steubens, the Lafayettes, and the Pulaskis of the Revolution? It was easy to ask such a question. He felt a deep and grateful veneration for the memory of those illustrious men. They were leaders of our armies; but what could they have accomplished without soldiers? Was it not a fact known to the world, that the immigrants from the Emerald Isle—that land of brave hearts and strong arms—had shed their blood freely in the cause of our liberty and independence? It was now both ungrateful and unjust to speak of these people, in the days of our prosperity, as hordes of foreign paupers. Such was not the language applied to them during the revolutionary war, when they constituted a large and effective proportion of our armies. The senator had asked if he

(Mr. B.) would grant pre-emptions to the Hessians. It is true they had fought upon the wrong side, and were not much entitled to our sympathies. Still some apology might be made, even for them. They were the slaves of despotic power: and they were sold by their masters, like cattle, to the British Government. They had no will of their own, but were under the most abject subjection to petty princes, who considered themselves, by the grace of God, born to command them. But the condition even of the poor Hessian has since been greatly improved. The principles of liberty, which were sanctified by the American Revolution, are winning their way among every civilized people. In no country have they made greater progress than among the people of Germany. The Hessian of the present day is far different from what his fathers were; and let me tell senators from the West that the best settlers they can have amongst them are the Germans. Industrious, honest, and persevering, they make the best farmers of the country; whilst their firmness of character qualifies them for defending it against any hostile attacks which may be made by the Indians along our western frontier. As to the hordes of foreigners of which we had heard, they did not alarm him. Any foreigner from any country under the sun, who, after landing with his family on our Atlantic coast, will make his long and weary way into the forests and prairies of the Mississippi, and there, by patient toil, establish a settlement upon the public lands, whilst he thus manifests his attachment to our institutions, shows that he is worthy of becoming an American citizen. He furnishes us by his conduct, the surest pledge that he will become a citizen the moment that the laws of the country permit. In the mean time, so far as my vote is concerned, he shall continue to stand upon the same footing with citizens, and have his quarter section of land at a minimum price.

John C. Calhoun expressed himself friendly to the amendment, but opposed to the bill.

The question on the amendment was taken by yeas and nays, and decided in the negative—for the amendment 15, against it 28, as follows:

Yeas—Messrs. Bayard, Clay of Kentucky, Clayton, Crittenden, Knight, Merrick, Prentiss, Preston, Rives, Robbins, Smith of Indiana, Southard, Spence, Tallmadge, and Tipton—15.

Nays—Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Lyon, Morton, Nicholas, Niles, Norvell, Pierce, Roane, Robinson, Sevier, Walker, Webster, White, Williams, Wright, and Young—28.

At a later stage of the debate, Daniel Webster referred to the proposition of Mr. Merrick thus:—

"It has been proposed to amend this bill, so as to limit its benefits to native or naturalized citizens of the United States. Although I have heretofore been disposed to favor such a proposition, yet, on the whole, I think it ought not to pass; because such a limitation has been altogether unknown, in our general system of land sales, and to introduce it here, where we are acting on rights already acquired, would be both invidious and unjust."

Henry Clay subsequently commented on the manner the bill had been carried, and spoke as follows:—

"What, he asked, had they seen? A proposition was made by an honorable senator from Maryland (Mr. Merrick) to limit the pre-emptions to citizens of the United States,

native and naturalized; rejected. And could any body say, after that naked vote of the Senate, that it had not become the permanent policy of the country to go on inviting all the hordes of Europe to come over and partake of this bounty, derived from our ancestors, and which we should preserve for our posterity?"

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## CHAPTER XXIV.

### THE HOMESTEAD BILL.

ON the 22d of January, 1850, Daniel Webster submitted the following resolution:

*Resolved*, That a provision ought to be made by law, that every male citizen of the United States, and every male person who has declared his intention of becoming a citizen, according to the provisions of the law, of twenty-one years of age, or upwards, shall be entitled to enter upon and take any one-quarter section of the public lands which may be left open to entry at private sale, for the purposes of residence and cultivation; and that when such citizen shall have resided on the said land for three years, and cultivated the same, or if dying in the mean time, residence and cultivation shall be held and carried on by his widow, or, his heirs, or devisees, for the space of full three years from and after making entry of such land, such residence and cultivation, for the said three years, to be completed within four years from the time of such entry, then a patent to issue for the same, to the person making such entry, if living, or otherwise, to his heirs or devisees, as the case may require: *Provided nevertheless*, That such persons so entering and taking the quarter section as aforesaid, shall not have, nor shall his devisees, or heirs have, any power to alienate such land, nor create any title thereto, in law or equity, by deed, transfer, lease, or any other conveyance except by devise, or will."—*See Congressional Globe*, vol. i., pp. 210, 666.

In the House of Representatives, propositions of a similar character were introduced by Andrew Johnson, of Tennessee, and Henry D. Moore, of Pennsylvania, but no action was had on them. *See Congressional Globe*, vol. i., pp. 295, 1122, 1449, 1474.

At the first session of the thirty-second Congress, Mr. Johnson, of Tennessee, again introduced the subject in the House of Representatives, which was discussed at great length, and finally passed. *See Congressional Globe from p. 29 to 1348*. The bill was brought into the Senate, May 13th, but was not acted on during the remainder of the session, nor at the succeeding session. *See Congressional Globe*, page 1352 to 2266. At the first session of the thirty-third Congress, as early as December 14th, John L. Dawson, of Pennsylvania, again introduced in the House of Representatives the subject, and, after much discussion, it was again

passed by the House,—(*See Congressional Globe*)—and finally by the Senate, but vetoed by President Pierce. Pending its consideration in the Senate, Benjamin F. Wade, of Ohio, offered an amendment providing that the benefits of the bill should not be limited to those then residents in the country, which led to a long and interesting discussion. *See Congressional Globe*, vol. xxviii., part 2, p. 944. Mr. Wade said :

The object of my amendment is to strike out the limitation which restricts the benefits of the bill to persons who are now residents of the United States, and prevents its operating in favor of those who may come into the country after its passage. I can see no good reason for the distinction now made in the bill. I am willing that foreigners who come into this country, and go on to the public lands and settle there and labor for five years, should then have the advantages of this law. I am willing, so far as I am concerned, that the law shall operate as an inducement for such persons to come here and settle on our public lands. The effect of the amendment will be barely to strike out this restriction, and to make the bill operate in favor of all foreigners who may come in hereafter, as well as those who are now here. This is the only object of the amendment.

**Mr. Adams, of Mississippi, said :**

I cannot, Mr. President, vote for the amendment of the Senator from Ohio. \* \* \*

The proposition of the Senator from Ohio is, that you shall not only tax one portion of the people for the benefit of another, but that you shall tax the native born and adopted citizens of this country for the benefit of foreigners ; that you shall say, by this bill, to every man who may reside without the limits of the United States, if he will come here, that your citizens shall be taxed to the value of one hundred and sixty acres, and a bounty of that amount of land bestowed upon him. To that I am opposed.

My friend from Iowa said he hoped the time would never arrive when the people of this country would cease to remember, with sentiments of gratitude, the claims of the descendants of the Lafayettes and Montgomeries, and others who aided our fathers in the revolution. I hope so too ; but times have changed. The time has ceased, in my humble judgment, when we should continue to hold out other and different inducements to individuals to immigrate and become citizens of this country, than are afforded by the character of our institutions. I would not change the policy of this government, and refuse to hold out inducements such as we have heretofore held to foreigners. I desire to see this country continue to be a home and an asylum for the oppressed of all nations. I desire, whenever a foreigner sets his foot upon our soil, to have thrown over him the panoply of free institutions, to protect him in his person, his property, in pursuit of happiness, and an unbounded liberty of conscience ; and with that, from this day forth, I will stop. To every man who has come here under the existing laws, I would extend all the rights which our present laws promise him, and to every man who comes to this country in the future, with the rights I have indicated, I would ~~use~~ offer more. Have you not seen, sir, within the last few months, petitions presented here and laid upon your table, remonstrating, in the name of foreigners, against the action of this body ? Not content with that, have you not learned through the public newspapers that a mob of foreigners, under the style of foreigners, assembled together, and hanged in effigy an honorable member of this body ? What does that indicate ? If the act

indicates any thing or has any significance, it is that, in the estimation of those men, the individual referred to, the Chairman of the Committee on Territories, (Mr. Douglas,) ought to be hung by the neck until he is dead, and for what, sir? For doing his duty to the Constitution, to his oath, and to his country. I ask Senators if they do not see indications in this of a combination in retaining the notions of the olden country which shows that it is necessary that we should check it by legislation. I do not propose that at the present time—but that we should cease to hold out any further inducements. What do we need of further immigration from other countries? We have a sufficient population to protect ourselves against the world. We have a sufficient population to settle every portion of our country which it is necessary to settle. For the purpose of a free and happy government we have a sufficient population, and I think we should not adopt the amendment of the Senator from Ohio, and thereby tax native born and adopted citizens to purchase one hundred and sixty acres of land for those who may think proper to come here hereafter.

John B. Thompson, of Kentucky, said :

The old thirteen States are to get nothing. Whatever we may claim, we are to have nothing. The Senator's proposition not only comes up to that, but it turns round and says, in reference to Nebraska and the Missouri Compromise, to Southern Senators, not only are the old thirteen States to be deprived of their rights, but we will let these Irish and Dutch, and any body you please—I do not speak in disrespectful terms—come into the territory, and, if you want to go any where from Virginia, or Louisiana, or Texas, you must stand back and let them take the land. Is there a Southern man, who has a regard for his constituency, or the interest of the section which he represents, who intends—as he knows it is a foregone conclusion that this is all to be free soil territory—to let them take it, and let them snatch it away from them, and say that men from the South are not to go into it, because they are tainted with a nigger? Are we to be told that we must stand back, and let strangers, and aliens in blood, in feeling, and language, have it? But I do not know what Southern Senators, or Senators from the old States, may think in reference to this sort of thing, because they have got recently to arguing about matters in such a way that a man scarcely knows, unless he examines closely, what they really design.

Mr. President, I do not know that I exactly concur with him who said some years ago, in commenting upon this matter, that we never would have a first-rate man again as President; for he said, that understrappers and understrickers would never let a man of prominent ability attain to the position; that no such man could ever come to the Presidency of the nation, because the understrappers and seekers of office would be eternally for catching a man whom they could control. He thought we never would have a President of any size or account again. So far as that is concerned, the first thing that you see these Presidential aspirants do—I am sorry to say it; I apply it to no party, or men—is to start a demagoguing; and, sir, he draws himself up; he is not an American at all; his father was an Irishman, and his mother a Dutchman. [Laughter.] That is the beginning of it. Then, though he has no respect for religion, no regard for things of that sort, supposing himself in his peculiar views to be in the minority, and though he may be an infidel, and hate all religion, the next thing we hear, he is making the sign of the cross, and muttering all sort of insensible jargon over the country to catch Catholics [Laughter]; and then, sir, to top off the thing, he offers all his land to these men, just as the wicked one of old offered to our Saviour the kingdoms of the

world, if he would fall down and worship him, when the old scoundrel had not an inch of *terra firma* in all creation to put his foot upon. [Great Laughter.]

Now, sir, I wish gentlemen to understand that I am not a Native American, in the political sense in which the word is used. I have a profound respect for the original policy which was inaugurated or installed at the origin of this government in relation to foreigners. I believe that we now commonly use regal and imperial terms when speaking of a matter of policy; everything now-a-days, whether a principle or a measure, is "installed" or "inaugurated." I say, therefore, that I have a very great reverence for the original policy installed or inaugurated by the founders of our government in relation to foreigners.

I cannot agree that now, when there is about to be a great struggle in Europe, we shall invite men from the perilleux and faubourgs of Paris, from the outskirts and brothels of London, and from the civil and revolutionary wars of Italy and Hungary. I cannot consent that, upon a mere declaration of intention, each of them shall have a right to one hundred and sixty acres of our public land. Suppose such fellows should come here in large numbers, and go out to that land of flowers—Nebraska—a country beyond the State in which you live, Mr. President, and one of us should go there. If we went, we should find it a perfect Babel of confusion, where unknown and innumerable tongues were spoken. If a man of the Anglo-Saxon race should go among them, and they should find that he had not been in a riot any where in Italy, that he had not been compelled to run away from France, but that he was a peaceable American, they would probably say to him, "How did you come here, sir? Who did you murder in Tennessee, or in Kentucky, for which you run away? Who did you swindle in New York, or what did you steal in Ohio, that you have come out here into this Babel of confusion?" Sir, are these people whom we should build up in a State in that far-off region, out of the ruined fortunes, the ransacked homes, and the broken hearts of the red men of the forest? Is this your philanthropy? I fear this is exactly what it will result in.

I do not know whether it is socialism from France, or whether it is Kossuthism from Hungary and Italy; but I say that, from the infusion of foreign material, or from the idiosyncracies of our own people, they have become so inflamed and so restive of power that if they were so concentrated in this country, and could make a revolution here as in France or in England, by getting possession of the capital, our inflammable, revolutionary, discontented, dissatisfied people would go far beyond filibusterism or anything of that sort, and would strike for the overthrow of the government itself. It is a blessing that they are not so concentrated. I ask you, then, sir, for the sake of the safety and perpetuity of this Union, to keep our public domain, not for foreigners, but as a safety-valve, as a means of escape to let off the wild, unrestrained spirits we have among us; to keep it as a place where, among Indians and buffaloes, and in the deep recesses of the mountains, and in reckless and perilous adventures, such men, intolerant of society, averse to toil, and opposed to labor, may go out and waste away their spirit which, if cramped up in a capital that controlled a nation, would subvert the institutions of the country. That, sir, with me is a grave consideration.

There are some other matters to which I do not now wish to allude, but to which I may probably refer before the bill shall be finally disposed of, if I get an opportunity. In regard to the policy of it, I am almost constrained to say that, rather than see located

on the western borders of the Missouri, a people aliens and strangers to us in blood, aliens and strangers to us in language, as confused in language as were those who were endeavoring to build the tower of Babel; people who do not love us, people of a bad stock, (for the vagabond, the pauper, and the refugee from Europe, or from our old States, are those who are to receive this gratuity) rather than to see such a confusion of tongues, such a ring-streaked and speckled set put up in our far-off territory, as a sort of *imperium in imperio* to hold the balance of power and control this Union, I would wish it destroyed like Sodom and Gomorrah, and lost to the Union forever; for we had better have no public land than have such neighbors.

At a subsequent stage of the discussion, John M. Clayton proposed to strike out the sixth section, which was in these words:—

“Sec. 6. *And be it further enacted*, That if any individual now a resident of any one of the States or Territories, and not a citizen of the United States, but at the time of making such application for the benefit of this act shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native born citizen of the United States,”—

and insert the following:

Sec. 6. *And be it further enacted*, That any mechanic or other citizen of the United States, of full age, engaged in and accustomed to any business, trade, or calling, other than the cultivation of land, shall, in consideration of his inability to comply with the conditions of this act, by reason of his want of knowledge, skill, or experience in such cultivation of land, be entitled to receive in lieu of one hundred and sixty acres of land, as herein provided, the sum of \$160, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. Clayton said:

The section proposed to be stricken out grants to every alien, or foreigner not naturalized, the moment he lands upon our shores, the right to locate one hundred and sixty acres of the public domain, to which he is to become fully entitled by a patent to be issued after the expiration of five years, if during that period he shall cultivate the land and reside upon it according to the terms of the bill. The object is to test the question whether aliens are to be placed on the same footing with citizens of the United States in the donation of the public lands. True it is, the section proposes to give only to foreigners who are here and not naturalized at the time of the passage of the act; but every man can see that if the principle is now adopted, by agreeing to the section which I propose to strike out, that all aliens in the country at the time of the passage of the act are entitled to one hundred and sixty acres of the public domain, as a matter of course it will follow that, at the next session, or at some subsequent session, another act will be passed for the mere purpose of putting them upon an equality of common justice, admitting all aliens, not only those now in the country, but all who may come hereafter, to as full a share of the inheritance of the American people as American citizens themselves.

Mr. Clay, of Alabama, said:

Mr. President, I do not propose to make a speech upon this question; but in addition to what has been said by the honorable Senator from Delaware, I wish to call the atten-

tion of the Senate to the fact that he does not present the case in as strong a manner as it may be presented. Now, sir, I wish to ask the friends of the bill what they mean by the term "now" residents of the United States. To what period of time does this word "now" refer?

But, sir, this is not all. I say that it is giving to aliens who may hereafter come into the country, bounties which have not only not been conferred upon American citizens, but bounties in which they cannot participate. The amendment which has been offered by the honorable Senator from Delaware suggests a large class of citizens who cannot participate in this bounty. Again, all those who have hitherto settled upon the public lands, and paid the price demanded, cannot be expected to participate in this bounty. Hence I am decidedly opposed to the sixth section, as it stands in the bill. I shall vote to strike it out, first, because I say it does not exclude any foreigner; it does not exclude those who are to come hereafter; for suppose the word "now" should be construed and understood by the Senate to mean at the time of the passage of the bill; suppose that to be the time designated, I ask, where in the bill is it required of any foreigner that he shall swear that he was a resident of the United States at the time of the passage of the bill? There is no such requirement any where; and hence it appears to me to be a miserable equivocal that is intended to mislead or deceive somebody. He is not required to swear that he was then a resident of the country. I do not care when they come, it is a perpetual right granted to all who may arrive hereafter to participate in the bounties of the government in settling upon the public lands; because they are not required to state that they were residents of the country at the time of the passage of the bill, and the word "now" is an indefinite and unmeaning one, which is subject to different interpretations by different persons.

Mr. Clayton again:

What I stated in regard to the section is perfectly and literally true. It offers to every alien, every foreigner not naturalized, as soon as he arrives in the United States, the right to one hundred and sixty acres of the public lands as soon as they are surveyed; and it does it in this way: He has nothing to do but to make his declaration of intention. Of course that causes no trouble. Then he enters upon the land, and has as much right to enter as an American citizen who has lived here for forty years. Then he is to cultivate the land according to the provisions of the bill, just as citizens must do, for five years. That is just the time within which he can become naturalized. In five years any foreigner can become naturalized, and then he is entitled to a patent precisely as any other man who is born here; so that, in effect and substance, this section gives to every alien the same right to the full extent of a native born citizen of the United States.

Sir, there is another thing rather remarkable in this bill. There is no time provided within which the foreigner, not naturalized, shall become a citizen of the United States. If he lives on the land five years after having declared his intention to become a citizen, at any time after that, whenever he shall choose to become a citizen, if that is twenty years afterwards, he is entitled to a patent; and yet during all this time he is to remain on the land and enjoy it as fully as any American citizen can do. There is not a word in the bill to drive him from the land because he does not at the end of the five years become a citizen, so that I respectfully submit to the honorable Senator from Wisconsin, I think I was right in every thing that I said in reference to the section. I do not propose to discuss it. It is perfectly true that I have not disguised my views in



reference to the great principle contained in it. They have been explained heretofore. I am decidedly for a distinction between the American citizen and the alien. I am not one of those who cry out against aliens, or one of those who have opposed the immigration of foreigners to this country. Let them come here; we have land enough for them. Let them become Americanized here; let them learn the institutions of the country. The naturalization laws direct that they shall reside here long enough to understand these institutions. Is it asking too much to say that they shall reside here five years before they become entitled to a donation of one hundred and sixty acres of land?

I am entirely opposed to offering a premium to immigration from Europe, and, in offering that premium, placing the foreigner precisely upon the same foundation as an American citizen. That has never been the policy of this government, and I trust it never will be. No nation that ever cheapened the right of citizenship prospered by it. I would teach every American citizen, if I had my way, to be proud of the name of an American citizen, and to honor it, and I would have it respected throughout the whole world. It should be a matter of boast, in a foreign country, that he was an American citizen. While making no distinction between the naturalized citizen and native born, yet I would have them all proud of the name of an American citizen. But, sir, if you pass this measure, it will necessarily require the adoption of another measure hereafter, to let all aliens who may come here in future, participate to the same extent in the enjoyment of the public property of the United States with native born citizens. The effect of it is to cheapen and degrade the character of the American citizen. Yes, sir, it tends to cheapen and degrade it, because it places the American citizen upon the same foundation precisely with every man in Europe; no matter whether that man be an outcast of a prison, no matter what crime he may have committed, he comes here and acquires that right.

Augustus C. Dodge, of Iowa, said:

I was about to ask him, (Mr. Clayton,) but I will not—I will inquire of the most determined opponent of this foreign born population, if he will propose to repeal our naturalization laws? For if it be an evil those laws produce it, and should be repealed. If those laws are to remain as they now are, and immigration shall continue to pour into the country, I humbly submit that it is much the wiser course to adopt such measures as will cause these people to feel the deepest possible interest in our country and its institutions. At present the fight is upon allowing them to become owners of soil, that soil which many of them have fattened with their blood, as I knew was the case in Wisconsin and Iowa. Here you fight them upon the simple privilege of allowing them, as your native born citizens, when they take their lives in their hands, and go to Nebraska and Kansas, the right to become the owners of a quarter section, after having complied with the conditions of the law, and settled and cultivated the land for five consecutive years. Is there any party, faction, or segment of a party, except that misguided and proscriptive faction called "Native Americans" or "Know Nothings," who have the hardihood or the courage to propose to repeal the naturalization laws of the United States? I sincerely hope and trust not.

A. G. Brown, of Mississippi, said:

I am, perhaps, as much opposed as any gentleman in the Senate to conferring political rights on foreigners, as long as they are such; but when they have been naturalized, when they have been, by our laws, placed upon the same footing with American

born citizens, then, and then only, am I ready to admit them all to all the rights of citizenship. But, sir, during this session of the Senate we have made a very marked exception to that general rule. We have, by almost the unanimous vote of the Senate, authorized, in the two important territories which we have just organized—Kansas and Nebraska—foreign born people, who are not yet citizens, to vote, and we have admitted them to all political rights of our own citizens. And now, sir, shall we hesitate when we are asked simply to allow these same people to settle upon a piece of public land?

If I could have had my way, I never would have admitted these people to political rights until they had been here long enough to learn something of our laws, long enough to learn and study our Constitution; but the policy of the country, as marked out by the two branches of the Legislature, and sanctioned by the President, has been different. It has been to admit them to all the rights of citizenship, so far as voting and holding office in these territories are concerned. Now, sir, I am not going to stop short and say to a man, "though you may have the same right to vote as a native born citizen; though you have the same right to hold office as a native born citizen, you shall not have the same right to occupy the land; though you may govern you may not occupy the soil."

You committed a grievous fault when you authorized foreigners to vote and govern the country. You cannot atone for it by refusing them the right to work the land which they govern.

William C. Dawson, of Georgia, said:

It is not a controversy between foreigners, and American or native citizens. It is unjust to the character of the country and to the respective parties of this confederacy, to charge against one or the other. It is, sir, a question of justice between the foreign population and the natives of the country. Like the Senator from Delaware, I maintain that, if there be any property to be distributed, or an advantage in the administration of bounties, the native American, the citizen of the country should be entitled to it. I maintain that the man who has up to this period lived upon your soil, defended your frontier against the savage population, of which my able and distinguished friend from Iowa has spoken, defended it from the incursions and attacks of the very nations from which these foreigners may come, should be entitled to it. The man who does not possess that feeling is lacking something of that patriotism which attaches to me in my native country.

The Constitution of the United States contemplates a difference between the native and the foreigner, and requires a uniform system of naturalization. There is a constitutional difference between personal and political rights in some degree. By our naturalization laws we declare to the world that all foreigners, whatever may be their age, who arrive within the limits of this country, are not of full age—speaking after the manner of men—are not twenty-one years of age until they remain here five years, and qualify themselves to become American citizens. Those persons, then, who are not qualified for want of proper time or examination into our institutions, are to be entitled, according to this bill, as it stands, to one hundred and sixty acres of land, when the sons of native American people over the age of sixteen, understanding our language, living here, having in all probability rendered some service to the country, cannot, in anticipation of their majority, claim to settle upon one hundred and sixty acres of land, because they are not of full age. A foreigner who cannot utter an English sentence, whose

parents, and who himself never rendered a particle of service to this country, can go, under this bill, and settle himself upon one hundred and sixty acres of land, while an American young man of intelligence, even if he be in his nineteenth year, is not entitled to it.

Now we have here a legislation special in its character, for the benefit of foreigners—special legislation for them—contemplating the giving of land to them, because we were to propose to pay their value to our own citizens by special legislation! Here is an antagonistic proposition. Will you give the land, or an equivalent value, to the mechanics in the country, who cannot leave their present homes; or will you prefer the foreigner who has not yet been naturalized, to the mechanic? That is the question.

Salmon P. Chase, of Ohio, said :

There is a sound and sufficient ground of distinction between citizens in fact or intention, and aliens who do not design to become citizens, but no reason at all for any such distinction between immigrants who do intend to become citizens. The section as it stands, draws a line between immigrants already arrived and immigrants to arrive hereafter. Those who arrive to-day are to have the benefit of the act; those who arrive to-morrow, if the bill in the mean time should become a law, will be excluded from its benefits. Can any body assign a reason for such a discrimination between (if I may be allowed to coin a phrase) the ante-venients and the post-venients?

Sir, the principle for which I contend now, of non-discrimination between different classes, was sanctioned in the recent Kansas and Nebraska act. I congratulated the country at the time upon the recognition of the right of such immigrants, without distinction, to the elective franchise. I was glad to witness the breaking down of old prejudices against immigrants coming into this country, which led to a nearly unanimous vote in this chamber in favor of retaining the clause which allowed them to vote in the territories. That vote recognized no such narrow and illiberal discrimination as this bill now makes. It went upon a sound reason. It allowed all to vote after declaration of intention, and taking the oath prescribed by the act. It excluded none, whether arrived before or after the passage of the act. It made no distinction between those who might, and those who might not, exercise the right of suffrage, except the distinction between those who should manifest a disposition to become citizens, and a readiness to qualify themselves for the exercise of the franchise, under the provisions of the act, and those who might not be ready to become citizens, or so to qualify themselves.

A. P. Butler, of South Carolina, said :

Now, no man from a foreign country can become a citizen of the United States before he takes the oath of allegiance, and takes the oath to support the Constitution of the United States; and according to the usage which prevailed in South Carolina—but, perhaps, it is a usage not universal, or not observed any where else—no one could become a citizen until he not only swore to support the Constitution of the United States, and absolved himself from all allegiance to any foreign potentate or power, but until he brought into court a certificate of three citizens that he was a worthy man.

But, sir, under this section, who may not come in? A man may come reeking from the jails and poor-houses of Europe. I will go further, and say that the deserters upon your field of battle may come in—men who fought against those who won your territories can come and take land without having sworn the oath of allegiance. Yes, sir, the very deserters upon the plains of Churubusco, who shot down your regiments, might

come and take possession of your lands, to the exclusion of those who were more worthy.

I have no disposition, Mr. President, to disguise my opinion on this subject, though I know this foreign influence is strong, is increasing and will be stronger. When foreigners come from abroad, become naturalized, and give the guarantees required by the naturalization laws, I will make no distinction between them and other citizens.

I am perfectly willing to recognize the political power of naturalized citizens; but I will never consent to invite immigrants to come here who have not given any of the guarantees required by the Constitution and laws of the country. I am not one of those who fear to defy such a power, though I know it is an increasing one, and I apprehend it is one that is courted.

I was opposed, therefore, to the introduction of the clause referred to by my honorable friend from Mississippi into the Nebraska bill, which favored somewhat the doctrines of my honorable friend from Michigan, (Mr. Cass.) While we were delegating the power of moulding the institutions of these territories, I was willing to trust it to those who could think through the medium of the American mind. I went with him very far, when I was perfectly willing to delegate all the power to those who were capable of making laws; but when the proposition was introduced that we should delegate the power to any body who might settle upon the lands, I thought it was going too far.

Mr. Clay, of Alabama, said:

A great deal has been said here in condemnation of what are called Native Americans, or Know Nothings. I am neither one nor the other, in the political sense of those terms; but let me ask the Senator from Iowa, who is the zealous friend and champion of the foreign population, whether there is any measure which could be conceived of, or projected, or passed by Congress, which is better calculated to excite, to foster, and encourage a Native American feeling, than this very bill? I tell him that, if this bill passes, he will see realized what I had hoped never to witness in this country—he will see a Native American, or Know Nothing party growing up in the Southern States of this Union. And, sir,—and I say it with no less pride than pleasure,—as much traduced, libelled, and slandered, as those States have been by the fanatics at the North, they have been freer from all species of radicalism than any other section of this confederacy; and, but for the pure, conservative principles, and true American feeling of the South, in my opinion, the radical, meddlesome spirit of the North would, ere this, have involved this government in a foreign war. You saw no map-worship of Kossuth exhibited at the South, during his pilgrimage among us. And you have seen no indications of jealousy, envy, or hatred of foreigners among Southrons. We neither feel nor exhibit towards them such evil passions. You have no disposition there to embark in the policy of intervention with the affairs of foreign countries, or to exclude foreigners from participating as citizens in the privileges of this country. But pass this bill, and impress upon the public mind throughout the South, the idea that, not content with sheer justice of foreigners, you will be generous to them, and unjust to your own citizens, and the spirit of Native Americanism will soon develop itself where, hitherto, it has been unfelt and almost unheard of. Let the friends of foreign immigrants on this floor beware lest they injure rather than benefit that class of our population.

Mr. Stuart, of Michigan, said :—

I shall not vote to strike out this section. I do not think it is worth while to confine entries under this act to native born citizens. I think that a man who is here to-day, "a resident," in the language of the bill, "of one of the States or Territories," may properly enter upon this land and cultivate it.

I discover no magical effect in this question of citizenship. I do not believe that a man is any better to-morrow, after having perfected his naturalization and become a citizen, than he is to-day, when it is unperfected. He is the same man. He stands before the country and his God in the same attitude. He has the same morality, the same propensities, the same inclinations, and the same judgment.

William H. Seward said :

I address myself for a moment to the proposition which is immediately under consideration : the amendment proposed by the honorable and distinguished senator from Delaware, [Mr. Clayton.] That amendment proposes substantially to strike out that provision of the bill which provides that foreigners not naturalized, but candidates for naturalization, shall participate in this distribution of the public lands; and in lieu of that provision, substitute one giving a sum of money equivalent to the value of the lands to native born mechanics throughout the United States, who may not be able to avail themselves, by reason of their habits and circumstances of life, of the benefits which the bill gives generally in the shape of lands. Sir, I think the honorable senator will excuse me for saying that the last proposition seems to be merely designed to serve as a cover for the first, as a pretext by which we may compensate ourselves for something that we do, in striking out the proposition in favor of foreigners.

I look at this in two lights—one as a measure belonging to a general principle, sentiment, or policy; that is, the principle of discouraging immigration into this country. That will be its effect. In that respect it is a part, a single measure, of a whole system, which is commonly called Native Americanism; that is to say, of establishing a preference for native American citizens over foreigners. I do not know that my honorable and distinguished friend meant, by this single proposition, to extend his support to the general principle; but there are others here who have advocated it upon that ground. Now, then, it is well enough, if we are going into this principle at all, to see where it leads. I have in my hand the policy of exclusion of foreigners, or aliens, as it is elaborated and drawn out into distinct propositions by a journal which represents that class of society who support that principle. I find that there are sixteen articles in this creed. Here they are :

1. Repeal of all naturalization laws.
2. None but Americans for office.
3. A pure American common school system.
4. War to the hilt on Romanism.
5. Opposition, first and last, to the formation of military companies composed of foreigners.
6. The advocacy of a sound, healthy, and safe nationality.
7. Hostility to all papal influences, in whatever form, and whatever name.
8. American institutions and American sentiment.
9. More stringent and effective immigration laws.
10. The amplest protection to Protestant interests.

11. The doctrines of the revered Washington and his compatriots.
  12. The sending back of all foreign paupers landed on our shores.
  13. The formation of societies to protect all American interests.
  14. Eternal enmity to all who attempt to carry out the principles of a foreign church or state.
  15. Our country, our whole country, and nothing but our country.
  16. And finally, American laws and American legislation; and death to all foreign influences, whether in high places or low!
- Sir, this creed contains just half a dozen true, sound American principles.
- Mr. Chase. Will the senator allow me to ask him where he finds this creed?
- Mr. Seward. In the American Crusader.
- Mr. Chase. Where is it printed?
- Mr. Seward. I believe in Boston. I find in it a comprehensive view of the principles, some of them right and some of them wrong.

\* \* \* \* \*

I am stating what purports to be the creed which comprehends all the articles of this principle of opposing foreign immigration. I need not discriminate here in favor of those principles which are national, those which are just, and those which are American. I need not point them out and show which they are. It is sufficient for me to say that, in my judgment, every thing is un-American which makes a distinction of whatever kind, in this country, between the native born American and him whose lot is directed to be cast here by an overruling Providence, and who renounces his allegiance to a foreign land and swears fealty to the country which adopts him.

Thomas G. Pratt, of Maryland, said:—

I cannot accord either, Mr. President, with the doctrine of my friend from Michigan [Mr. Cass], when he says he can see no difference between foreigners and Americans, and that being an American citizen does not make a man purer, does not change his heart, his mind, or his morality. He can see no difference between American citizens and foreign citizens. Now, sir, we are living, I admit, in a new era. We are living in days of progress; but I regret that the day has ever come when, in the Senate of the United States, and by a senator as respectable as my honorable friend who has made the asseveration, it should be declared, seemingly with the approbation of many of those who heard him, that he could see no distinction between an American citizen and a foreigner, upon a question of disposing of property exclusively belonging to American citizens. Sir, this is an electioneering topic. The speeches here are made not for our consideration, not to have weight with us, but for home consumption. I can readily see that in those States where foreigners are allowed to vote and exercise the privilege of American citizens, their representatives here may feel bound to protect them; and their own political existence may require that protection; but I never can assent to the doctrine that there is no distinction between an American citizen and a foreigner, in giving one or the other a right to own the soil of this Union. I am not talking about naturalized or native citizens; but I am talking about citizens of the United States, recognized by the Constitution of the country as citizens.

\* \* \* \* \*

I am thoroughly convinced, whatever may be considered the policy of the government in reference to the disposition of the public lands, it is undoubtedly impolitic (and I say further, for my friends from those States where foreigners are now allowed to vote before they are naturalized, the time is coming fast when the impression will pervade

every section of this Union that it is impolitic, and that it will become unpopular) to give the right, the sacred right, of making the laws of this country to those who do not owe allegiance to it.

**Mr. Jones, of Tennessee, said :—**

My first impression was in favor of striking out the sixth section, as proposed by the senator from Delaware, (Mr. Clayton.) I do not exactly reconcile it to my feeling, or to my Americanism, if you please to allow that expression, that a foreigner shall come here a week before the passage of this law, if it shall pass, and occupy the same position in regard to the public property as an American citizen. I have that difficulty on my mind; and upon that impression I was inclined to act at first, and to vote with the senator from Delaware, in favor of striking out; my mind has, however, after thorough investigation, undergone some change on that subject, and I will ask the indulgence of the Senate while I give my reasons for that change.

I find on examination, that this has been the policy of the government from the first introduction of the system of granting homesteads; in 1850, the bill granting homesteads in Oregon was in the very identical words of this bill. Other laws for the same purpose have been passed since, containing the same provisions.

**Mr. Geyer, of Missouri, said :**

I object to this section, for another reason: Any alien, white or black, be his character good or bad, may make a declaration of intention to become a citizen. The naturalization laws contemplate the grant of citizenship only to men of good moral character, attached to the institutions of this country. And, therefore, the alien must prove by two witnesses that he is a man of good moral character, attached to the institutions of this country, before he can obtain a certificate of naturalization.

We require that an American citizen, in order to obtain the benefits of the act, shall be the head of a family, or twenty-one years of age: and if he is a naturalized citizen, he must have been in the country long enough to give evidence of his attachment to the institutions of our country; he must prove such attachment in a court of justice; he must on oath renounce his allegiance to all foreign powers, and swear to support the Constitution of the United States. It is proposed, however, by the sixth section, to give land to those who have not shown any evidence of a good moral character; who present no proof of attachment to the Constitution or institutions of the country; who renounce no allegiance to any foreign government; and who may postpone until the end of time swearing allegiance to the Constitution of the United States.

Sir, I have said I was in favor of this bill; and if the sixth section shall be stricken out I will vote for it with much pleasure; but while I will make no discrimination whatever between the citizens of the United States, natural or naturalized, native or foreign born, I will discriminate between the citizen, naturalized as well as native, against the alien. I will not put the alien upon the same footing with the citizen, native or foreign born. That is the principle on which I act.

Pending the consideration of Mr. Clayton's amendment, Mr. Dixon, of Kentucky, moved the following amendment: "*Provided*, That the benefits of this act shall not extend to the children, heirs, or devisees of aliens born out of the United States who are twenty-one years of age, until they shall file their declaration of intention to become citizens of the

United States." The question being taken by yeas and nays, resulted—yeas, 21; nays, 20; as follows:

Yeas—Messrs. Badger, Bayard, Benjamin, Brown, Butler, Clay, Clayton, Dawson, Dixon, Evans, Fitzpatrick, Geyer, Hunter, Johnson, Mallory, Mason, Pearce, Pratt, Sebastian, Thompson of Kentucky, and Toucey—21.

Nays—Messrs. Adams, Allen, Chase, Dodge of Wisconsin, Dodge of Iowa, Fish, Foot, Gillette, James, Jones of Iowa, Jones of Tennessee, Norris, Pettit, Seward, Shields, Stuart, Wade, Weller, and Williams—20.

Mr. Brown, of Mississippi, moved to amend further, as follows:

*And provided further*, That foreign born persons who fail to become citizens within six years from the time of entry on the land, shall lose all rights under this act.

This amendment was also adopted by the following vote:

Yeas—Messrs. Adams, Allen, Atchison, Badger, Bayard, Benjamin, Brodhead, Brown, Butler, Cass, Clay, Clayton, Dawson, Dixon, Evans, Fish, Fitzpatrick, Foot, Geyer, Hamlin, Johnson, Jones of Tennessee, Mallory, Mason, Norris, Pearce, Pettit, Pratt, Ruak, Sebastian, Shields, Slidell, Stuart, Thompson of Kentucky, Toucey, Weller, and Williams—37.

Nays—Messrs. Chase, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Gillette, Jones of Iowa, Seward, Sumner, and Wade—9.

Mr. Benjamin, of Louisiana, offered still further to amend as follows:

And if any person of the age of sixteen years and upwards, born in the United States, shall, before arriving at the age of twenty-one years, make application for the benefit of this act, he shall be entitled thereto: *Provided, however*, That no patent shall issue in favor of such applicant before he shall have attained the age of twenty-one years.

Mr. Jones, of Tennessee, spoke against the amendment; in reply to which Mr. Benjamin remarked as follows:

What is the proposition against which it has pleased the senator to inveigh? He stands up and supports, before the Senate, the proposition of the bill, that any individual, who has not the remotest interest in the country, who was not born here, who may have arrived here but yesterday, should be entitled to go on to the public lands, which belong to the people of the United States, to settle there, to cultivate those lands, and by his settlement and cultivation to entitle himself to a fee-simple in the soil. He does not propose to wait until the immigrant shall have obtained the right of a citizen. He does not propose to subject him to any apprenticeship before he is entitled to enter upon the soil; but from the moment of his arrival he is to be placed upon the same footing as an American citizen born in the United States. Now, by the first section of the bill, a citizen born in the United States is not to be entitled to any of those privileges which the senator from Tennessee is willing to afford to foreigners, until he reaches the age of twenty-one years. The policy of your bill is to settle and cultivate the public lands. My proposition is to carry out the policy, and to give the same advantages to citizens born upon the soil, as you give to foreigners who have come here but yesterday. Will the senator deny, for a moment, that if this policy can be carried out by granting these privileges to citizens born on the soil, it ought not to be so carried out in reference to foreigners? \* \* \* Without restriction of color, ay, character, or interest in the soil, or



in the institutions of the country, the foreigner, at the first instant he lands upon the soil, is to have the right to create for himself a title to 160 acres of your land, and the children of the man who has fought and bled, and, perhaps, died, in the service of the country, are to be deprived of the same right.

Mr. Benjamin called for the yeas and nays on his amendment, which were ordered; and being taken, resulted—yeas 26, nays 20, as follows:—

Yeas—Messrs. Adams, Atchison, Badger, Bayard, Benjamin, Brodhead, Brown, Butler, Clay, Clayton, Dawson, Dixon, Douglas, Evans, Fitzpatrick, Geyer, Hamlin, Hunter, Mallory, Mason, Norris, Pearce, Pratt, Rockwell, Thompson of Kentucky, and Williams—26.

Nays—Messrs. Allen, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Foot, Gillette, Jones of Iowa, Jones of Tennessee, Pettit, Ruak, Seward, Shields, Slidell, Stuart, Sumner, Wade, Walker, and Weller—20.

The section, as modified and amended, proposed to be stricken out, was as follows:—

That any free white person now a resident of any one of the States or Territories, and not a citizen of the United States, but at the time of making such application for the benefit of this act, shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native born citizen of the United States: *Provided*, That the benefits of this act shall not extend to the children, heirs, or devisees of aliens, born out of the United States, who are twenty-one years of age, until they shall file their declaration to become citizens of the United States: *Provided further*, That foreign born persons who fail to become citizens within six years from the date of their declaration of intention to become so, shall lose all rights under this act. And if any person of the age of sixteen years and upwards, born in the United States, shall, before arriving at the age of twenty-one years, make application for the benefit of this act, he shall be entitled thereto: *Provided, however*, That no patent shall issue in favor of such applicant before he shall have attained the age of twenty-one.

The question being taken by yeas and nays, resulted—yeas 19, nays 29:

Yeas—Messrs. Adams, Badger, Bayard, Benjamin, Brodhead, Butler, Clay, Clayton, Dawson, Evans, Fitzpatrick, Geyer, Hamlin, Hunter, Mason, Norris, Pearce, Thompson of Kentucky, and Williams—19.

Nays—Messrs. Allen, Atchison, Bright, Brown, Cass, Chase, Dixon, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Fish, Gillette, Gwin, James, Johnson, Jones of Iowa, Jones of Tennessee, Pettit, Rockwell, Shields, Slidell, Stuart, Sumner, Toombs, Toucey, Wade, Walker, and Weller—29.

So the policy sought to be established by Mr. Clayton was not agreed to. Before the vote was taken, Mr. Fish stated that Messrs. Seward and Cooper had paired off, the former being against Mr. Clayton's amendment, and in favor of the bill, and Mr. Cooper being in favor of the amendment and against the bill.

## CHAPTER XXV.

## CAUSES OF OPPOSITION TO FOREIGNERS.

THE immense immigration of late years, and the palpable growing influence of the foreign born has become a source of anxiety, and it is not now regarded with great favor by any considerable portion of the native citizens. Many causes have conspired to produce this change of sentiment and feeling in the American people, and to induce a very general conviction, that the present unlimited and unguarded admission of foreigners into this country, is a serious public evil. And why do they so regard it, and are they anxious for some reformatory legislation on the subject? The inquiry is well answered in the pamphlet, written by a foreigner, already quoted from. It is, in truth, as he says :—

"Because any body and every body may come without let or hindrance. The rogues and vagabonds from London, Paris, Amsterdam, Vienna, Naples, Hamburg, Berlin, Rome, Genoa, Leghorn, Geneva, &c., may come and do come. The outpourings of alms and work-houses, and prisons and penitentiaries, may come and do come. Monarchies, oligarchies and aristocracies may and do reduce millions of the people to poverty and beggary, and compel the most valueless to seek for a shelter and a home in the United States of America, and they do so. And what are the consequences? The consequences are that about 400,000 souls from Europe, chiefly Germans, Irish, and Dutch, are annually arriving in this country and making it their permanent abode. That a vast number of these immigrants come without money, occupation, friends, or business; many, very many, have not the means of buying land, getting to it, stocking it, and waiting for first crops, and many others would not settle upon land if they could. That, go where you will in the United States, you find nearly all the dens of iniquity, taverns, grog shops, beer houses, gambling places, and houses of ill fame and worse deeds, are kept by foreigners; and that numerous objects of poverty and destitution are to be seen crawling along the streets in every direction. That not a few become criminals, filling our prisons and putting the country to great expense. This is a fearful catalogue of consequences, but they are by no means all. This unlimited and unrestricted admission of foreign immigrants, is a serious injury to the native laboring population, socially, morally, religiously, and politically; socially, by overstocking the labor market and thus keeping wages down; morally and religiously, by unavoidable contact and intercourse; and politically, by consequence of want and employment and low wages, making them needy and dependent, whereby they become the easy prey or willing tools of designing and unprincipled politicians. And in this way the native population is deteriorated and made poor, needy, and subservient: and these realities produce want of self-respect, hopelessness, laxity in morals, recklessness, delinquencies, and crimes. X

"But there is another consequence which is deserving of notice, and it is this. Our manufacturers, iron makers, machinists, miners, agriculturists, railway, canal, and other contractors, private families, hotel keepers, and many others, have got into the way of

expecting and seeking for cheap labor, through the various supplies of operatives, workmen, laborers, house help, and various kinds of workers, kept up by the indiscriminate and unrestrained admission of immigrants. Indeed, it is no secret that immigrants, or rather foreign workers, have become an article of importation, professedly for the purpose of providing for the deficiency of supply in the labor market, but in reality with the intention of obtaining efficient workers at lower wages."

Yet, with all these evils flowing from the unguarded admission of foreigners, evils of every class and character, affecting all the relations of life, there is no disposition among the native born Americans to discourage the immigration of moral and industrious Europeans. On the contrary, they rejoice in being able to furnish them an asylum from oppression, and a home in which they may enjoy all the blessings of liberty; but they neither feel nor feign any attachment or regard for the criminals and adventurers who have left their own country for their country's good. They gladly welcome to their country every honest and industrious man in Europe, with this exception, that they do not come to rule America, but to be content to let those rule who are to the manor born. "We do not propose," is the language of a recent address of the American State Council of Georgia, "to shut our doors on the world, but that we continue to be the asylum of the oppressed of all nations. Let the victims of civil and ecclesiastical tyranny come. What we mean to say is, that with our consent they shall not rule the land."

All that is desired of foreigners is to lay aside their national peculiarities and prejudices, to deport themselves with becoming modesty and propriety, and, instead of at once mingling in political broils, and attempting to regulate and control public affairs, mind their own private business. No American finds fault with them for remembering the country of their birth. All they would have the foreigner do is to study to become a good and useful citizen, making himself acquainted with the principles of the government, imbibing the spirit and genius of its institutions, assimilating himself to its manners and customs, and, in a word, to fear God and honor the country of his adoption. Alas! there are, however, too many of the immigrants from the Old World who do not thus conduct themselves after their arrival in this country, and hence the prevailing sentiment now extant among the native citizens, in favor of restricting, by law, the power and privileges of aliens to within prudent limits. No such general feeling would probably now exist, had the foreigners been content with a rational exercise of the privileges which are so freely by law conferred upon them; but, instead of enjoying these in that becoming and unassuming manner which would do them most credit, and exerting themselves to the utmost to lay aside their nationality, and assimilate in character, habits, manners and associations with the native born, they have formed clans, and organized into bands,

whose misconduct is but the too frequent cause of disorder and tumult in our large towns and cities. Nor is this all. Instead of refraining from participating in political and religious controversy, they have been the most active in introducing it on both subjects. They have not been satisfied with the rights of citizenship and the protection of American laws, but demand office as a right, and even insist upon the political proscription of Americans for resisting their demand. Need we, then, wonder that they have become obnoxious?

In consequence of this state of feeling now extant, Thomas D'Arcy McGee, an Irish refugee at New York, has lately volunteered his advice to Irish journalists on the subject of immigration, and pointed out the evils which, he thinks, Irish immigrants have to meet in the United States. His advice to them is, to migrate to Canada, and, though he fled himself from British tyranny and oppression, and was but a few years since glad to make this country his own home, the new order called Know Nothings seems to have frightened him from his propriety, and brought upon him a fit of admiration for British rule in Canada; and in this advice he has been thus seconded by the *Dublin Telegraph*, which is said to have a larger circulation than any other journal in Ireland:

"As to the Irish people themselves, they really want something more substantial and more beneficial to them, as a working and industrious nation, than a republic. The Irish have had two bitter experiences of a republic—in their own country, as subjects of an English republican government—in the United States, as subjects of the great American republic. In both, they have suffered a remorseless, ruthless, pitiless persecution,—here, from the Cromwellians—there, from the Know Nothings. The Irish are aware that under a republican form of government, there may and can be no safety for bishops, priests, monks or nuns. This is the Irish experience of a republican form of government. Why should they expose themselves to all the horrors of civil war to bring such a calamity upon their country?"

Mr. McGee's advice, and the article of the *Telegraph*, are of the same character, and deserve about the same consideration as the advice of the Irishman to his countrymen to migrate to South America, which is mentioned by James K. Paulding, in his *Letters from the South*, vol. ii., p. 205. If the opinions of that eminent American writer, who has since held a cabinet office under a democratic administration, were so well settled on the subject of immigration as early as 1816, as the annexed account, taken from one of those published letters, would seem to indicate, how much more must he now be confirmed in them, when foreigners virtually control, in many of our cities, the action of political parties, and not only fill the home offices, but represent the American people at the courts in Europe! If the following well-drawn picture was justified by facts in 1816, it is doubly so now:

"The truth is, the great cities along the sea-coast are not quite one-half American

cities, and change their aspect every year, as a snake does its skin. When I last visited N——, after an absence of two years, I walked the streets without knowing any body. The ancient inhabitants seemed to have been swallowed up by the strange party—colored mixture of all kinds of figures that elbowed me on every side. The signs, which in our frolics we used sometimes to pull down, were all changed, and the city was a new world. Hence arises the singular change of politics observed to take place in this ancient and repowned emporium of foreign trade and foreign influence. Foreigners rule the banks, foreigners are the loudest at elections, and foreigners, in more than one place, have had the hardy ingratitude to array themselves in direct opposition to the people who afforded them an asylum, and a participation of their rights, as well as of their happiness. A wretched fugitive, who lately set up a paper in your city, has had the insolence to upbraid us with affording his starving countrymen, last winter, nothing but soup in charity ; as if we were under any obligation, but that of our own humanity, to support them ! Does he suppose we feel their visits to this country an honor—or an obligation ; or that we are bound to pamper them with luxuries as strangers of distinction ! He has, however, made some amends for his insolence, by advising his countrymen in future to immigrate to South America ; and I earnestly hope they will be fools enough to take his advice.

“ This subject reminds me of a queer fellow that went by the name of *Paddy Whack*, who came over from a place called *Knockecroghery*, as I think, and palmed himself upon a good-natured kinsman of mine, whom we familiarly called *Uncle Sam*. Pat had many good qualities, *but was a little apt to forget himself, and become ungrateful*.

“ Pat heard of America, ‘*THE SWEET LAND OF THE EXILE*,’ where the industrious stranger is ever welcome, and ever sure of competency, if he seeks it any where but at grog-shops and soup-houses, and *where freedom, plenty, safety and happiness are so often repaid by base ingratitude*. To that happy land he set out, on a stick instead of a horse, and was quite surprised at two things, to wit : that his horse was of little use in preventing his getting tired, and that he could not get to America by land. So he took shipping, and when he came there, the first thing he did was to abuse the captain of the ship for not giving him a free passage, and the people for not giving him roasted turkeys instead of soup for charity ; seeing how valuable a citizen he was, and what a compliment he paid the country by his visit. He was still more nettled when he found that he got no practice, except with people who paid no fees ; for there were already more lawyers than suits in that famous city. So he took up the business of patriotism, and fastened himself upon *Uncle Sam*, who was a liberal, good-hearted old fellow, that kept open house to all comers, and received Pat with kindness and hospitality, because he was poor and an exile.

“ Uncle Sam in a little time gave Pat all the privileges of his household—kitchen, cellar, and all ; and, in truth, fed and pampered him at such a rate, that in a short time his legs came to look like Jupiter’s thigh, with a little whiskey Bacchus in it. As I said before, Pat was a fellow of many good qualities—hospitable, brave, and generous—but his hospitality was not often exercised in favor of Uncle Sam, for he had no house to be hospitable in ; his bravery was rather indiscriminate at times, for he sometimes defended himself when nobody attacked him, and generally attacked friends as well as foes ; and his habit of unthinking generosity too often made him forget the favors he received, and become ungrateful. Pat, in fact, was a fellow that did not get credit for half his good qualities ; because he had such a queer left-handed way of showing them, that one-half of the time people mistook them for faults.

"Living so long at Uncle Sam's good house, he began to think that because he had been fed in the eagle's nest, he must needs be a young eagle. So he said to some roosting boys that used to come and see him and drink *Uncle Sam's* whiskey, 'By Jesus! let us turn Uncle Sam out of house and home, and have a time of it. The old fellow has taken us into his house and entertained us handsomely; but what of that? We are the true liberty boys, and will take the bull by the horns at once. So down with the old aristocrats, the fellows that side with England, because they won't give us our land, and who have kept us out of our inheritance these two hundred years; for wasn't Kit Columbus a *Knockecroghery* man, sure?' So they got drunk upon *Uncle Sam's* whiskey, and then marched into the parlor to turn him out of doors. But the old man and his sons were too stout for them, and put them out for that time. But he could not find it in his heart to discard Pat from the house, he was such a queer, good-natured dog, there is no knowing what may happen in the end. The last I heard of Pat was his making such a rout at an election, that the people in the neighborhood were obliged to get up a society for the protection of native born citizens against Pat and his roistering companions, who wanted to be represented by Pat in the Legislature!!"

Mr. Paulding has presented a no less humorous than truthful description of the conduct of but too many Irishmen in America. So formidable and powerful a class have naturalized citizens now become, that they not only, to a great extent, control the action of political parties of the country, but are so fully conscious of it that the bolder spirits among them do not hesitate to threaten Americans with what they can and will do, if their requests be not complied with. But a few years ago the Irish Repeal movement was made a hobby by some of our American demagogues whereon to ride into office in some of the large cities. As soon, however, as they had effected their own personal purposes, the movement was permitted to languish and fall into odium. It was then that the *Freeman's Journal* came out with an article, probably written by Archbishop Hughes, containing the following impudent threat in the disguised language of what purports to be advice to Irishmen:

"Irishmen learn in America to bide their time; year by year, the United States and England touch each other more and more nearly on the seas. Year by year the Irish are becoming more and more powerful in America. At length the propitious time will come—some accidental, sudden collision, and a Presidential campaign at hand. *We will use, then, the very profligacy of our politicians for our purposes.* They will want to buy the Irish vote, and we will tell them how they can buy it in a lump from Maine to California by declaring war on Great Britain, and wiping off at the same time the stains of concessions and dishonor, that our Websters, and men of his kind, have permitted to be heaped upon the American flag by the violence of British agents."

In this threat we have confirmed the apprehensions felt and expressed by Americans; for it is an unblushing avowal, from a high source of authority, among a very large class of foreigners in this country, that that vote may be purchased by those who will consent to the terms on which it is disposable. Other threats, no less startling, have been fre-

quently made, among which is the one contained in the following article not long since published in one of the Irish journals in New York, and generally understood to be from the pen of John Mitchell:

For every musket given into the State Armory, let *three* be purchased forthwith; let independent companies be formed, thrice as numerous as the disbanded corps—there are no Arms Acts here yet—and let every “foreigner” be drilled and trained, and have his arms always ready. For you may be sure (having some experience in the matter) that those who begin by disarming you, mean to do you mischief.

Be careful not to truckle in the smallest particular to American prejudices. Yield not a single jot of your own; for you have as good a right to your prejudices as they. Do not, by any means, suffer Gardner’s Bible (the Protestant Bible) to be thrust down your throats. Do not abandon your posts or renounce your functions as citizens or as soldiers, but ever resort to the last and highest tribunal of law open to you; keep the peace, attempt no “demonstrations;” discourage drunkenness, and *stand to your arms*.

It is to be conceived that the madness of faction and the insolence of race will proceed to such a length as to disarm independent companies or private men. If they do, then the Constitution is at an end—the *allegiance you have sworn to this republic is annulled!*

Would to God that thoughtful and just Americans would bethink themselves in time. They are strong—they far outnumber the foreign born; they are proud, and flushed with national glory and prosperity; doubtless they *can*, if they will, do great and grievous wrong to a race that has never wronged them; but seriously, earnestly, we *assure them the naturalized citizens will not submit*. This senseless feud must be reconciled; there must be peace—peace, or else a *war of extermination*. We are here, on American ground, either as citizens or as *enemies*.

The bitter and unrelenting, amounting to persecuting opposition of the same class of men, to Henry Clay, in 1844, on account of Mr. Frelinghuysen, the candidate for Vice President, being a Protestant professor of Christianity, and a well-known and active member of the American Bible Society, and the publication of such articles as the following, originating in Brownson’s *Review*, with which the opposition press teemed, did much to alarm the public at the foreign influence in our midst, and to cause indignation against those who thus controlled it against the election of that truly American Statesman and Patriot:

Mr. Frelinghuysen is quite a different man, and while agreeing with Mr. Clay in all the obnoxious measures to which Mr. Clay himself stands pledged, he represents certain other elements of the Whig party, from which still more evil, if possible, is to be apprehended. Mr. Frelinghuysen is not only a Whig in the worst sense of the term, but he is also the very impersonation of narrow-minded, ignorant, conceited bigotry—a man who boldly attacks religious liberty, demands the unhallowed union of Church and State, and contends that the government should legally recognize the religion of the majority, and declare whatever goes counter to that to be *contra bonos mores*. He concentrates in himself the whole spirit of “Native Americanism and no Popery;” which

displayed itself so brilliantly in the recent burning of the Catholic dwellings, seminaries, and churches in the city of Philadelphia.

We found this charge on Mr. Frelinghuysen's speech in Congress on the Sunday mail question, and on a book now lying before us, entitled "An Inquiry into the Moral and Religious Character of the American Government," (New York: Wiley & Putnam, 1838,) which, we presume, it will not be denied was written by him. This work is exceedingly declamatory in its character, and remarkably deficient in clear, distinct and definite statements; but no man can read it without feeling that its author would withhold all political rights, whether to vote or to be voted for, from all persons except members of what are called evangelical sects. "Has it not," it says, "become a cant among us, that *as electors* we have nothing to do with men's religious sentiments—no right even to inquire about them? Twenty gods, or no god, or the God that made the

world, is quite indifferent; *Papists and Protestants are all one; Socinians, Jews and evangelical believers are all one*; yes, and the tattooed cannibal of the South Sea, were he to honor our asylum of liberty by seeking a lot in its blessings, would enter at once into the same family circle of undistinguished and indistinguishable unity; free alike to live among us and to rise above our heads; for the doctrine is, that whoever is entitled to sit in the shade of the constitutional tower, has a right also to scale its walls." The meaning of this, vaguely as it is expressed, is not difficult to divine. It is "native Americanism" and "evangelicalism." The author, it is true, does not formally advocate a union of Church and State; nay, he, in words, expresses his dissent from such union; but he expressly contends for a "*political religion*," which, of course must be the test of political rights, and that this political religion must be the religion of the majority. He transfers, boldly and avowedly, to religious matters, the doctrine that the majority must govern, and that the minority must submit. It is true, he attempts to make a distinction between what he calls *ecclesiastical Christianity*, and the *ethics* of Christianity, but it is a distinction which can amount to nothing; for the ethics of a religious denomination are founded on its dogmas, and, in enacting the ethics, you do necessarily, by implication at least, enact the dogmas themselves. Enact what the majority define to be Christian ethics, and you necessarily enact the theology, christology, and anthropology of the majority, for these are the foundation and source of their ethics. The practical effect of Mr. Frelinghuysen's doctrine would be to establish the religion of the majority as the law.

We see personified in the Whig candidates, modern feudalism, political profligacy, and canting, fanatical religious bigotry. Their success would be fraught with the most serious danger to our political institutions, to social equality, and to religious freedom. All is hazard. As matters now stand, all that is dear to our hearts, as freemen and as Christians, is involved in the approaching contest. We of the Republican party have committed many faults; we have on too many occasions proved ourselves unworthy of the sacred cause entrusted to our keeping; yet the all-beneficent Providence has not wholly cast us off, but graciously gives us one more opportunity to atone for past delinquencies, and to win new honors. The holy cause of political, social, and religious freedom is once more committed to our charge. The sacred deposit is placed in our hands, and at our hands will the Supreme Judge demand it. Every man of us must feel the sacredness of the trust, and remember that "the Lord seeth." There must be no cowards, no traitors, no laggards. A high and solemn duty rests on each one of us to rebuke political profligacy, and religious bigotry and fanaticism; to do all that man in honor and honesty may do to save this country, this chosen land of Providence, to the freedom of the human race, to make it the "home of virtue, an asylum to the oppressed, and a name and a praise in the whole earth."



The *Boston Pilot* of October 31, 1844, well known as a Roman Catholic organ, contained the following article:—

"We say to all men in the United States entitled to be naturalized, become citizens while you can—let nothing delay you for an hour—let no hindrance short of mortal disease, banish you from the ballot-box. To those who are citizens, we say vote your principles, whatever they be—never desert them—do not be wheedled or terrified—but vote quietly, seriously and unobtrusively. Leave to others the noisy warfare of words; let your opinions be proved by your deliberate and determined action. We recommend to you no party; we condemn no candidate but one, and he is—Theodore Frelinghuysen. We have nothing to say to him as a Whig—we have nothing to say to Mr. Clay, nor any other Whig as such—but to the *President of the American Board of Foreign Missions*, the friend and patron of the Kirks and Coxes, we have much to say. We hate his intolerance—we dislike his associates—and we shudder at the blackness and the bitterness of that school of sectarians to which he belongs, and amongst whom he is regarded as an authority."

Read the following extract from Brownson's *Quarterly Review* of July, 1844, as a sample of their attacks. Speaking of Mr. Clay, then a candidate for the Presidency, Brownson says:

"He is ambitious, but short-sighted. \* \* \* He is abashed by no inconsistency, disturbed by no contradiction, and can defend with a firm countenance without the least misgiving what every body but himself sees to be a political fallacy, or logical absurdity. \* \* \* He is no more disturbed by being convicted of moral insensibility than intellectual absurdity. \* \* \* A man of rare abilities, but apparently void of both moral and intellectual conscience, \* \* \* and therefore, a man whom no power under that of the Almighty can restrain, he must needs be the most dangerous man to be placed at the head of the government it is possible to conceive."

If it is wrong now to mingle religion with politics, why did this Romanist organ turn aside from its appropriate duties in 1844, to utter such slanders upon the character of Henry Clay?

The private correspondence of Mr. Clay, recently published, shows that, in the opinion of himself and his leading friends, his defeat was owing to the foreign vote that was arrayed against them. It will be seen, from the following extracts, that the apprehensions entertained by the American party are nothing new. In a letter, dated Buffalo, November 11, 1844, Mr. Fillmore writes to Mr. Clay as follows:

The Abolitionists and foreign Catholics have defeated us in this State. I will not trust myself to speak of the vile hypocrisy of the leading Abolitionists now. Doubtless many acted honorably but ignorantly in what they did. But it is clear that Birney and his associates sold themselves to Loco Focoism, and they will doubtless receive their reward.

Our opponents, by pointing to the Native Americans and to Mr. Frelinghuysen, drove the foreign Catholics from us, and defeated us in this State.

Writing on the same subject, John H. Westword, in a letter, dated Baltimore, November 28, 1844, says:

Then judge my deep mortification and disappointment to find the sailor's friend, the master spirit of the late war, "the noblest Roman of them all," rejected by the American people, and such a man as James K. Polk placed in the Presidential Chair. Did I say American people! I recall that expression, for two-thirds of the native freemen of the United States are your fast friends. Yes, sir, we love you now better than ever; and when the name of Jackson and others of your vile traducers shall be forgotten, yours shall be remembered and live in the affections of all lovers of liberty.

It was foreign influence, aided by the Irish and Dutch vote, that caused our defeat. As a proof, in my native city alone, in the short space of two months, there were over 1000 naturalized.

In a letter addressed to Mr. Clay, by Theodore Frelinghuysen, dated New York, November 9, occurs the following paragraph:

More than 3000, it is confidently said, have been naturalized in this city alone, since the 1st of October! It is an alarming fact, that this foreign vote has decided the great questions of American policy, and contracted a nation's gratitude.

The strenuous efforts made by a Foreign Priesthood to obtain into their possession, and to exercise exclusive control over, all the property of their church; their attempt to exclude the Bible from the Public Schools, and to divide the School Fund of the States for sectarian purposes; and the haughty, domineering, insolent, and very often abusive language used by them towards all differing with them in religious sentiments, have done much to create public indignation against them, and produce hostile feelings towards all foreigners of their class. Thus a few years since the *Freeman's Journal*, well known to be under the control of Archbishop Hughes, boastingly informed the American people, that if Mr. Hastings, chaplain at the American Consulate in Rome, made a single convert, "he would be kicked out of Rome, though Mr. Cass (Jr.) should bundle up his traps and follow him." And the *Pittsburg Catholic Visitor*, referring to the same subject, expressed itself as follows:—

"For our own part, we take this opportunity of explaining our hearty delight at the suppression of the Protestant chapel in Rome. This may be thought intolerant, but when, we would ask, did we ever profess to be tolerant to Protestantism, or to favor the doctrine that Protestantism ought to be tolerated? On the contrary, we hate Protestantism—we detest it with our whole heart and soul, and we pray that our aversion to it may never decrease. We hold it meet that in the Eternal City no worship repugnant to God should be tolerated, and we are sincerely glad the enemies of truth are no longer allowed to meet together in the capital of the Christian world."

So the celebrated Priest Brownson, in his *Review*, published such sentiments as the following:

"Heretofore, we have taken our politics from one or another of the parties which divide the country, and have suffered the enemies of our religion to impose their political doctrines upon us; but it is time for us to begin to teach the country itself those moral and political doctrines which flow from the teachings of our own church. We are at home here, wherever we may have been born; this is our country, as it is to become

thoroughly Catholic, we have a deeper interest in public affairs than any other of our citizens. The sects are only for a day; the church forever."

And in an oration delivered by him at St. Mary's College, he spoke of our Common School System as follows:—

"The education we are laboring to give American children is only fitted to make them *infidels, libertines, sharpeners, and rogues.*"

And the *Freeman's Journal*, the New York Archbishop's organ, in a very recent article, expresses the confident hope that the time is near at hand, when the Roman Catholic church can educate its children, in its own way, at the public expense. The following is an extract from the article referred to:—

"Let the *Albany Evening Journal* put this potent argument of the Canadians alongside of its returns of the census which show the decrease of the agricultural population of this State, since the unlucky and un-American State 'free-school-law' went into operation.

"But, this done, we meet our Canadian neighbors with clean hands and with a strong heart. We say to them: *We were the first, we have been the sternest and the deadliest enemy of the State 'free-school' oppression.* But, we tell them that the whole State-school system is foreign and antagonistic to the American political institutions and traditions. It is abhorrent to the national sentiment and spirit. We tell them, again, that whatever is antagonistic to the national fundamental institutions and spirit of a living country needs only time and circumstances to eradicate. Passion has been stimulated to carry and to sustain the State-school law. But passion must soon cool. Reason and experience will come to the judgment of the question. *Our opposition to the State-school system, will be seen to have been as truly for patriotism, as for religion. It will be a proud day for us, perhaps the proudest of our life,—for we shall live to see it.*"

So many other instances might be produced, all calculated to cause excitement, and bring about not only a powerful opposition to their measures, but an overwhelming feeling of indignation against them and all connected with or sustaining them in their aggressive acts. One more must, however, suffice, and that is one related in a late number of the *Nashville Gazette*, as follows:—

FATHER SCHACHT AND THE FREE SCHOOLS OF NASHVILLE.—On the first Sabbath of this month this Catholic Father commenced his assaults upon the free school system of this city, to be continued, we suppose, to the end. We have long expected to hear the first note of the Catholic anti-American war in this city sounded. What has been done in every other city we have expected to be done here. The priesthood and Catholicism in Nashville are imbued with the same spirit here as elsewhere—everywhere, at open war with the religion of Christ, the avowed and implacable enemy of republicanism, of civil and religious liberty and the foster parent of ignorance, superstition and intolerance.

Our reporter furnishes us with the following extracts from Father Schacht's charge to the Catholics of Nashville:

"The sisters' school commences in the morning, and I hope every Catholic will send his children. If PROTESTANTS ask if they may send their children to the sisters' school, tell them NO! unless they wish their children to become CATHOLICS. It is a Catholic school, and none but Catholics and those intended to become Catholics will be admitted.

"The free school of the city will also be in operation, and I hope no Catholic child will ever be found in that school. We have a right to send there; you will have to help pay the school tax, but it is better to lose your money than lose your CHILD'S SOUL. The honorably begotten and the ill begotten will all meet and mingle at that school, and I hope no CATHOLIC will be found there!"

The disgraceful scenes at Hartford, which ended in the death of Father Brady; those in Newark, Philadelphia, Buffalo, and other places, originating in the attempts of Bishops to force congregations to surrender all control over their church property into the hands of these Bishops, and the arrogant and tyrannical conduct of the latter, might, in addition to what has already been cited, be mentioned as contributing largely to arouse so strong, indignant, and general a feeling among Americans against foreign influence in this country.

So in relation to every question between our country and any of the papal nations of the earth, this Foreign Priesthood, or those who speak for it, has been arrayed against our own, and that often in the most offensive and insulting manner. Thus Gen. Cass, for the sin of making a speech in the Senate in favor of free worship and of the rights of conscience for Americans abroad, was kindly commiserated for his "confusion of ideas," and the fear was expressed that his pleading would be treated as "driveling" by foreign States, in a public letter from Archbishop Hughes, of New York; and Brownson, in the October number of his *Review* of 1852, said:—

"We are glad to see Gen. Cass laid upon the shelf, for we can never support a man who turns radical in his old age."

So of Mr. Everett. He, while Secretary of State, at the instance and with the approbation of President Fillmore, wrote a courteous and dignified note to the Grand Duke of Tuscany, requesting the release of the Madiais. For that mortal sin both were complimented thus by the *Free-man's Journal* on retiring from office; an occasion on which ordinary political antagonists, however hostile, make it a point to speak in terms of courtesy and respect:—

"It does not escape the independent judgment of the Universe, that the administration NOW HAPPILY DEFUNCT, HAS BEEN AS BIGOTED AS IT HAS BEEN IMBECILE. The Universe congratulates the country upon having elected a statesman for President, and for permitting the Unitarian ex-preacher, late Secretary of State, to return to his pulpit to proclaim that Jesus is not God, and Mr. Fillmore himself, to become a village lawyer."

And Brownson's *Review* for January, 1854, thus denounced President Pierce's administration for its course in the Koszta case:—

"He (Capt. Ingraham) mistook his duties, and suffered his zeal to get the better of his judgment. But as his government has approved his conduct, we must hold it, and not him, responsible for the insult offered to the Austrian flag. He was probably not initiated into the plot, and was used as a blind tool by the revolutionists. The secret of the whole transaction is not difficult to divine. It was to get up a war, if possible, with Austria, in accordance with the plans and ardent wishes of Ludwig Kossuth. For this purpose, we doubt not, Koszta returned, or was ordered by Kossuth to return, to Turkey, and very possibly, with the knowledge and approbation of OUR JACOBINICAL GOVERNMENT."

The rejection of Judge Woodward's nomination to the office of Judge of the Supreme Court of the United States, made by President Polk in 1845, was a marked illustration of the active interference, and the power and influence of the naturalized voters. The nomination of this gentleman was no sooner made by the President, then they as a distinct class rose up *en masse* against it. He, when a member of the Pennsylvania Reform Convention in 1837, had avowed himself to be in favor of prohibiting foreigners from and after a certain period to vote or hold office; and for this they opposed his nomination, and addressed the following remonstrance to President Polk:—

"Philadelphia, Dec. 18, 1845.

"SIR:—We are naturalized citizens and members of the Democratic party, who, having heard with *extreme surprise*, that Geo. W. Woodward has been urged upon you as a person qualified to fill the vacancy upon the bench of the Supreme Court, beg leave most earnestly to remonstrate against any such appointment. In the Convention to amend the Constitution of Pennsylvania, this gentleman proposed so to amend it, 'as to prevent any foreigner, who may arrive in this State after the 4th day of July, 1841, from acquiring the right to vote or hold office in this commonwealth.' Such doctrines might have been suited to the days of the elder Adams, but were considered by every Democrat as entirely at war with the principles of the great Democratic party. Those principles were luminously expounded in the resolutions of the Baltimore Convention, and upon *that faith we urged and advocated your election with all our zeal and strength*. We do therefore sincerely trust that they will be fully carried out in relation to this great judicial appointment. There is an intense excitement among our naturalized citizens, *which nothing could restrain*, if such a nomination were to be made. We therefore protest most solemnly against George W. Woodward."

A still more insolent course of proceeding was adopted towards Mr. Buchanan, the Secretary of State, by some of the naturalized citizens in New York, in relation to the same nomination. As he could not be assailed on account of having any direct hand in the appointment of the offensive judge, he was unceremoniously called upon, under pain of their displeasure, to clear himself of all suspicions of having any part in the odious transaction. After stating that the ground of their objection to the nominee

of the President was his being a prominent supporter of the bigoted doctrines of what they were pleased to term the Native American faction, they use the following very bold and remarkable language: "We desire to learn from you, what influences were brought to bear on the President to induce him to violate the feelings of the great mass of the democracy, by the nomination of one of the church-burners of Philadelphia. Rumor assigns you a participation in this measure; we wish to give you an opportunity of relieving yourself from the slander."

Nor did they stop here. They also addressed a remonstrance to the Senate, and a majority of the Senators obeyed the mandate, and rejected Judge Woodward, whereupon the *Freeman's Journal*, well-known as Archbishop Hughes' organ, boasted of it as a triumph. "When success," said it, "crowns the performance of a necessary public duty, (meaning the duty they had performed of protesting against the nomination), it ought to disarm any feelings of triumph on our part." Speaking of the rumor that Mr. Woodward endeavored to deny, in communications to the Senate, his ever having advocated the doctrines attributed to him, the *Journal* says:—"The most indiscreet generosity could not be so easily duped. The majority of the Senate wisely refused to accept so sudden a repentance for so grave and deliberate an offence."

No man in the country has done more to cause excitement among the Americans, and unite them against all attempts at innovations upon their institutions by foreigners, than Archbishop Hughes. He and those co-operating with him are mainly responsible for the present state of public sentiment. It would have probably not culminated for years to come, but for the political sermons he preached against the Common School system, and, as might have been foreseen by him, the consequent excitement aroused thereby throughout the whole country. Going still further, and advising a separate Irish organization, to operate and vote, as a religious sect, on that and other questions of which the great body of our native citizens were in favor, the excitement against him and them became uncontrollable, resulting in lamentable and disgraceful riots and in bloodshed. If there be any illiberality towards his countrymen, he did more than any other to produce that feeling.

The truth is, the Irish are greatly to blame themselves for the ill-feeling that now exists among the Americans against them, and those of them who are Roman Catholics may thank the foreign priesthood of their church for the distrust with which they and their religion are regarded by so large a number of American Protestants. Irishmen have never been favorites with the Anglo-Saxon race, and it is undoubtedly true that the same feeling which has existed for centuries towards them in England, has, in a more modified and less illiberal form, all along pervaded the Anglo-Saxon race in this country; while the dislike to Roman Catholics has

grown up into a strong feeling, not so much in consequence of hostility to the Roman Catholic religion, as on account of the bigoted teachings and conduct of its foreign priesthood. And if such men as Archbishop Hughes, Priest Brownson, and Messrs. McGee and Mitchell, have yet to realize this truth, though they ought to have been taught wisdom from experience, it is some satisfaction to know, that there are not wanting men of intelligence, even in Ireland, who understand the real condition of things in this country; and know where and to whom to ascribe the fault. The *Dundalk (Ireland) Democrat*, in noticing Mr. McGee's letter, makes the following comments, which are not only impartial and just, but deserve the serious consideration of every Irishman in the United States:

We are told now that Jonathan has got more of the Irish than he requires, and lest the Celt should become his master, that he desires to oppress him as the Egyptians oppressed the Israelites in Egypt. A storm of Know Nothing persecution rages against the Irish and their religion in America, the object of which is to deprive them of many of their civil rights, and if possible make it penal to profess their faith openly.

We cannot believe that this persecution will continue very long. We believe that the good sense of the country will again return, and that the bastard policy of the Know Nothings will speedily die out. But while censuring the outrageous conduct of the Know Nothings, let us be impartial and just. Has this persecution been unprovoked? Have all the Irish conducted themselves, as citizens of the great republic, in that sober, orderly and prudent manner, becoming a persecuted people who fled from the lash of tyrants, and found a home and a refuge in America?

We fear that some of them have been a noisy, turbulent, and intolerant class, who did no credit to the character of their native country, and were of little benefit to the land of their adoption. We fear, too, that some of the ultra Catholic journals went far beyond the bounds of prudence in writing on religious subjects.

We do not make these remarks to palliate the conduct of the native despots, who asperse and malign the Irish. We merely allude to the matter for the purpose of stating that the conduct of some of the Irish immigrants is not what it ought to be, and to counsel them to give up their intemperate habits, their rows, their faction fights, and act in such a manner as to earn the respect of their bitterest enemies.

If they do this they will at once disarm the Know Nothings, and bring to their aid every good citizen in the United States, those glorious spirits who subscribe to the tolerant views of Washington, Jefferson, and the other illustrious fathers of the republic. But if by their follies they disgrace themselves, can it be wondered at if the Americans declare that such a people are unworthy to share with them the freedom and blessings guaranteed by the Constitution of their country?

What, we ask, would the Irish people say, if two millions of Russians, Prussians or Greeks should come among them, and by their conduct set us all by the ears, commence rows in our streets, faction fights on our railways; and in their journals assail our creed, and evince little willingness to respect our best institutions? Would not the native population begin to think it right to exclude them from public offices, and declare them dangerous foes to the country?

We still consider the United States a better home for the Irish immigrant than any colony belonging to despotic England. Mr. McGee says the Catholic religion is respected in Canada. No doubt it is; but it would be far otherwise, were Canada not so

near the United States. The Irish Catholics can maintain the freedom of their faith in the States, if they only act prudently, and warn their newspaper writers to be less intolerant on religious topics. What good can they effect for the faith by calling Protestants hard names? No man ever made a convert by such means as that; on the contrary, it is by showing themselves good Christians, full of charity, benevolence and kindness to their neighbors, that they will prove the superiority of their religion, and attract persons differing from them to inquire into its dogmas, and in the end submit to its teaching.

These are our views, and we invite Mr. McGee to pay a little attention to them. He will find, we have no doubt, that many of the Irish in America, are not faultless, and that they are not what they ought to be. Let those turbulent characters reform themselves, and persecution will soon die a natural death. The good sense of the American people will revolt against it; and remembering how the Irish bled in the struggle for independence, Jonathan then will clasp them to his breast, and both united will make the republic of the West the enemy of slavery and despotism, the refuge of the persecuted, and "the home of the brave, and the land of the free."

Nor are these remarks applicable to Irishmen only. Those of other nations are equally obnoxious to many of the charges. As to the conduct of Englishmen, a forcible illustration is given by the Rev. D. R. Thomason, in his *Hints to Immigrants*, which, he says, a sense of duty compelled him to present, to show that there exists a moral obstacle, in the way to their obtaining employment, and the treatment they very often receive, of which they are themselves the cause. He says, page 39 :

Inability to procure employment for some Manchester operatives who came to our office, induced me to seek an interview with several gentlemen of this city, proprietors of manufactories, with a view to ascertain whether any thing could be done to give better encouragement to English operatives to immigrate to this country. Reference having been made to the fact, that the high wages paid to American operatives would prevent our manufacturers from being able to compete with those of England, I suggested whether the policy would not be to encourage the immigration of foreign mechanics in order to secure a decrease of the rate of wages. One gentleman replied with considerable emphasis and earnestness, "The truth is, we do not like to have an Englishman in our employ. We have generally found them, after a short residence in this country, amongst the most troublesome of our workmen. They are disorganizers, the first to express dissatisfaction and to propose to strike for wages. Often before they have been three months in the country they enter into politics, and are noisy and violent ultra democrats. Withal, they are frequently intemperate and immoral, and their example and influence are decidedly pernicious, and I would not have them, if I could do without them." "Is it not probable," I replied, "that advantage is taken of their ignorance, and that they are instigated by the native workmen?" "No, sir," was the reply; "on the contrary, they lead on the natives. I wish it to be understood," he added, "that these remarks do not apply to all, and those who are exempt from these faults are valuable to us." Now, my friends, is this true? Do American citizens, republicans native born, who share all the liberal and expansive spirit of their free institutions, thus speak of you? Do they thus shrink from your political and moral licentiousness? How striking is the comment here furnished on the remark which I have already made, that a bad subject of Great Britain will not make a good citizen of America! It is the



same misguided, unhappy, evil spirit which has recently made you a terror to your country, which gathered you on Kensington Common, and which dragged that fraudulent, lying petition of yours to the House of Commons, that closes against you American factories, and excludes you from this land of intelligence, freedom, plenty, and happiness. Would to God that this timely monition, this humiliating but friendly reproof might reach your heart, and work there that *reform* which you would carry into the government of your country. Do not mistake me. I blame you not for an attempt to mitigate your sufferings or redress your wrongs, but it is a golden maxim in republican America, that for every constitutional evil there is a constitutional reform in moral power, and must be based on intelligence and virtue.

Such, too, is eminently the case with a very large class of the German immigrants. They come here as disciples of Heine, who, in 1848, published his famous Democratic programme in Switzerland, one of the main features of which is, that there can be no true freedom until Christianity shall be abolished. Liberty to them is a vague and indefinite idea, and, under their guardianship, would soon be nothing more nor less than licentiousness. Imbued with the German philosophy of European revolutionary leaders, and filled with new, strange and bewildering theories of the destiny of man and of human society, they soon find, on their arrival here, that their ideas of universal happiness are not likely to be realized, in the present state of American society, or under the existing form of government; and they become accordingly the advocates for the abolition of both. Denying all imperfection in the nature of man, and finding the Christian religion in the way of their social and political reform, they do not hesitate to assail the religion as well as the government of our revolutionary ancestors. Organized under the style and title of *Free Germans*, they have their associations in all the principal cities of the Union. In March, 1854, the branch at Richmond, Virginia, published a platform of principles and a programme of measures. So did the one at Louisville, about the same time, from which the following extracts are made, showing the character, objects and purposes of the organization, and affording ample evidence that its members are not a desirable class of people to be invested with the rights of citizenship, until they are more capable of appreciating the principles and structure of our government than they now are :

#### TO ALL TRUE REPUBLICANS IN THE UNION.

The Free Germans of the Union have found it necessary to organize themselves for the purpose of being able to exercise a political activity proportionable to their number and adapted to their principles. There is a fair prospect for success for such an organization, and in this hope the Free Germans of Louisville, Kentucky, have proceeded to law down the following platform, which they unanimously agreed upon in a mass meeting, and make it known to the public at large as the standard of their political course.

• • • • •

The Free Germans furthermore indulge in the hope that it will be possible to form a powerful reform party, embracing all who want that liberty now so much endangered, and the progress and happiness of this our common republic to be secured on principles lasting, truly republican and democratic. They wish, after having completed their organization, to establish—with the aid of their liberal-minded fellow-citizens—such a power of votes as to be able, in 1856, to decide the victory in favor of a party of true reformers.

The editors of public papers who will enter into a discussion of the platform—which we invite them to do, *sine ira et studio*, that is, before all, without narrow-minded nativism and blind party spirit—are politely requested to favor us with a copy of the number of numbers containing their arguments. Address Charles Heinsen, editor of the Pioneer, Louisville, Ky., letter box 1,157.

BURGELEK,  
L. WITTIG,  
STEIN,  
B. DOMSCHKE,  
C. HEINSEN,

} Committee.

Louisville, Ky., March, 1854.

#### PLATFORM OF THE FREE GERMANS.

1. *Slavery Question.*—Notwithstanding that we consider slavery to be a political and moral cancer, that will by and by undermine all republicanism, we deem its sudden abolition neither possible nor advisable. But we, as republicans and men, demand that the further extension of slavery be not constantly urged, whilst not a single step is taken for its extermination. We demand that at length real proofs be given of the good-will so often boasted of to remove the evil; that in particular slavery be excluded from all new territories indiscriminately and forever, which measure Congress is completely entitled to pass according to the Constitution; we demand this the more, as a republican Constitution is guaranteed to every new State, and slavery, in truth, cannot be considered a republican element or requisite. We further demand that all and every one of the laws indirectly transporting the principle and the influence of slavery in and upon free States, namely, the Fugitive Slave law, shall be repealed, as demoralizing and degrading, and as contrary to human rights and to the Constitution; we finally demand that, in all national affairs, the principle of liberty shall be strictly maintained, and even in the several States it be more and more realized by gradual extermination of slavery.

2. *Religious Questions.*—We consider the right of free expression of religious conscience untouchable, as we do the right of free expression of opinion in general; we therefore accord to the believer the same liberty to make known his convictions as we do the non-believer, as long as the rights of others are not violated thereby. But from this very principle of liberty of conscience we are decidedly opposed to all compulsion inflicted to dissenting persuasions by laws unconstitutionally restricting the liberty of expression. Religion is a private matter; it has nothing to do with policy; hence it is despotism to compel citizens by political means to religious manifestations or omissions contrary to their private persuasions. We therefore hold the Sabbath laws, Thanksgiving days, prayers in Congress and Legislatures, the oaths upon the Bible, the introduction of the Bible into the free schools, the exclusion of "atheists" from legal acts, &c., as an open violation of human rights as well as of the Constitution, and demand their removal.

3. *Measures for the welfare of the people.*—As the foremost of such measures, we consider the free cession of public lands to all settlers; to occupy nature, the soil as exclusive property, this no individual has a right to do; it is, for the time, the common

principal fund of that population which inhabits it, and anybody willing to cultivate it has an equal right to appropriate a share of the soil, as far as it is not disposed of, for purposes of common interest. It is high time that the ruinous traffic with the public lands should be abolished, that the wasting of them by speculation should cease, and that the indigent people enter upon their rightful possession.

But if this end shall be fully attained, it will be required to aid poor colonists, at their first settlement, with national means, lest said measures prove useless for these very persons who most need it.

In the closest connection with the land reform question stands that of immigration, which, by its general importance, should be raised to the rank of a national affair, and for which a special office of colonization and immigration should be created as a particular department of the United States government. Such a board would have to provide for the various interests of immigrants who are now helplessly exposed to so many sufferings and wrongs and abuses from the place of embarkation in Europe, to the place of their settlement in America. North America is neglecting herself when neglecting the immigration, for immigration is the mother of this republic.

The admission of citizenship must be rendered as easy as possible to the immigrants.

The welfare of a nation cannot be generally and permanently secured unless its laboring classes be made independent of the oppression of the capitalist. Labor has an incontestible claim to the value of its products. Where it is prevented, by the want of the necessary capital, to secure this claim, it is of course referred to an alliance with capital of others. But if no just agreement can be obtained by this association with the capitalist, then the State, as the arbitrator of all contending interests, has to interfere. This must either aid the associations of working men by credit banks, or mediate between the claims of the laborer and the capitalist, by fixing a minimum of wages equally the value of the labor, and a maximum of labor answering the demands of humanity. The time of labor shall not exceed ten hours per day.

In letting out State contracts, the preference should be given, if it can be done without running a risk, to associations of workmen, rather than to single contractors. But when given to single contractors, the latter ought to give security for proper wages to the workmen employed by them.

In order to enjoy "life, liberty and happiness," all indiscriminately must have the use of free schools for all branches of education, in which, wherever a sufficient number of Germans live, a German teacher should be employed.

In order that the attainment of justice may no longer remain a privilege for the possession of money, justice must be dispensed without fees.

**4. Constitutional Questions.**—Considering, as we do, the American Constitution as the best now in existence, we yet think it neither perfect nor unimprovable. In particular we hold the following amendments and additions, likewise acceptable for the State Constitution, as timely and proper means to check the prevailing corruption, to wit:

1. All elections, without any exception, should issue directly from the people.

2. Any eligible citizen of any State may be elected as member of Congress by the citizens of any other State, and likewise may any eligible denizen of any county be elected by the citizens of any other county for a member of the State Legislature.

3. Any representative and officer may at any time be recalled by the majority of his constituents, and replaced by another.

**5. Free Trade.**—We decidedly profess the principle of free trade, and will support it in all cases where it may be carried through without disadvantage to the people, and where reciprocity is accorded by the other side.

6. *Foreign Policy.*—The policy of neutrality must cease to be an article of our creed, and ought to be abandoned soon as contrary to the interests of North America. The rights of American citizens and immigrants having declared their intention to become citizens, must the more energetically be protected in foreign countries, since every American appears to monarchical and despotical governments as a representative of revolution against despotism, and this republic ought to honor this point of view as the only one worthy and legitimate.

7. *Rights of Women.*—The Declaration of Independence says, that "all men are born equal, and endowed with inalienable rights, and to these belong life, liberty, and the pursuit of happiness." We repeatedly adopt this principle, and are of the opinion that women, too, are among "all men."

8. *Rights of Free Persons.*—In the free States, the color of the skin cannot justify a difference of legal rights. There are not born two men of equal color, but still less two men of unequal rights.

9. *Penal Laws.*—It is our opinion, that all penal laws can only have the purpose of correction, but never the absurd purpose of expiation. We, therefore, consider the penalty of death, which excludes the possibility of correction, to be as irrational as barbarous.

Nor are doctrines like these only promulgated by them in an occasional manifesto of one of their social associations. Many of their newspapers publicly and constantly proclaim them, and the fact that their doing so remains, to a great extent, concealed from the Americans, by the screen of a foreign language, makes it a greater evil than it otherwise would be, because it enables concealment until it shall have gathered strength sufficient to make its influence dominant at the polls in at least all the commercial cities. Witness the following from a German paper published in St. Louis:—

"The first and most principal mark whereby we distinguish ourselves from religious people is, that in the belief on a God, and that which connects itself with this belief, we recognize a destructive cancer, which for thousands of years has been gnawing at humanity and preventing it from attaining to its destiny. No individual can live as a human being; in no family can true happiness flourish; the whole human race is hastening on ways of error, so long as the (scheuslichsten Popanze) most abominable hobgoblins—*God, future existence, eternal retribution*, are permitted to maintain their ghostly existence. It is, therefore, the great task of every genuine revolutionist to put forth his best powers for the destruction of this flagitious nontrio, viz.: the hobgoblins of a God, future existence, and future rewards and punishments. No revolution is more than half executed, unless the *vi at nerve* of the Great Arch-monarch beyond the stars, (the Eternal Sovereign of the Universe,) is cut asunder; every attempted revolution is vain, if the ministers of this monarch are not exterminated, as we are wont to exterminate ruinous vermin."

Blasphemous as is the foregoing, the following from another German paper at Newark, New Jersey, is no better:—

"Self-preservation is the first and most prominent instinct of every living creature, as well as of man. So soon as our relations assume the form stated above, (namely, so

soon as want of employment and high prices of provisions ensue,) then this instinct of self-preservation makes its right effective, and the very natural impulse (Drang) is awakened to *fall to*, seize hold and take, wherever it is to be found, whatever is needful to life, especially bread and meat. Laws, customs, morality, *religion*, and whatever these straight-jackets of social life may be called, have indeed considerably circumscribed this instinct of self-preservation, especially when it assumes the form of seizing hold of what others claim. But in great and general distress, (i. e., when employment is scarce and provisions dear,) nature rends asunder all these artificial bands and chains with which social society has trammelled us, and nature makes her laws effectual."

Infamous as are the foregoing articles translated from German papers, the following, though of a different character, which has been translated by a correspondent of the *Pittsburg Times*, is conceived in no better spirit, and affords abundant evidence that he who wrote it, and the publishers of the German journals who gave it an insertion; as well as the readers to whom they would venture to furnish such reading matter, can never become good citizens, or be deserving to enjoy the rights of citizenship. It was published in the *Courier*, a German paper in Pittsburg, and it serves as an illustration of the general tone and temper of the German press conducted by foreigners. Certain expressions, such as *Solidarischen Republicanismus*, and others used in the original, lead the translator to ascribe it to the pen of Kossuth, and, it must be confessed, its general style and temper strongly justify the supposition that he is the author. But to the article—it speaks for itself:

#### THE LAND OF CONTRADICTIONS.

America is a great, and a free land! So we hear it every where announced—yes, if the *dead-letter*, called the Constitution, is sufficient to make a land free, then America is certainly a free land! But if we look at the little progress she has made since the time of her independence, and compare the reality with the declared principles, then we cannot do otherwise than declare it the land of contradictions.

America is the land of equality, especially in the equality before the laws, and yet, we do not find in any part of the world a more shocking inequality before the laws, than that which exists in this very country! Distinguished individuals—family connections, and in the utmost degree the "almighty dollar," creates in the land of freedom an influence as widely extended, as even in some monarchies, where the judgment-seat has at least a little honor attached to it, and is not so readily approached by bribery. The rich and distinguished stand here higher above the law, than in any other country. The poor are held in more contempt, and no where in the world is poverty a greater crime than in America. In the land which boasts of its humanity, which claims to be at the very top of civilization, society does far less for the poor than any where else. The laboring classes are treated in as shameful a manner as in Europe, with its ancient historical prejudices. The day laborer (proletaire) builds the railways; the day laborer offers up his life in their steamboats; the day laborer clears the wilderness with never-tiring axe, all for the benefit of a contemptible aristocracy; whose *evangelium* is rapacity, and the hideous monster of speculation. This arrogant cheese, fish and cotton

aristocracy, are ten times more presuming than the aristocracy of birth, for that can at least claim a prestige in its favor.

In these seventy years of independence, all these evils have increased in the highest degree; so that one might be tempted to believe that this liberty and progress will end in annihilation.

Religious freedom is one of the most beautiful and precious principles that was ever introduced into a Constitution; and if we look at its practical working in the United States, it must be admitted that the religious intolerance is much more rigid than in many monarchies of the Old World, if we except the oppressions which the Jews experienced. *An unbeliever, a free thinker, an atheist, runs more risk of being stoned than in old Bavaria.*

In Europe religious wars are almost regarded as impossibilities; in America there are from time to time religious wars in miniature between Irish Catholics and Protestant Know Nothings. The war of opinion must soon or late give place to the Roman hierarchy; but this cannot happen without many a bloody head! The principle of religious liberty shows itself by intolerance and bigotry.

A republic is that form of government which ought to be best administered and conducted at the least expense. In America every thing is turned upside down; the administration is as bad as it can be, and exceeds in its faults even the greatest despotisms, such as Russia, and perhaps China.

America is the land of personal liberty, but only under particular circumstances. The State, which cares very little for the prosperity of its citizens, takes upon itself the care of the bodily condition and health of its people. On that account they forbid them to be joyful on Sunday; out of mere respect for personal liberty, they close the social intercourse between individuals; they punish the sale of and use of intoxicating drinks. Why do they not in other things take pains to secure life and liberty? It is forbidden to a grown person to drink a glass of wine or brandy, because he may possibly injure himself by doing so; but an apothecary is allowed to sell arsenic and other poisons without prescription. Why does the State permit, when it is so anxious about the well-being of its citizens, that every barber may practice medicine, and through his ignorance make sport of the lives of thousands? Here opens a field, where the State could find an opportunity for the exercise of its legislative wisdom. It forbids the use of a glass of liquor, and yet a steamboat captain blows hundreds of persons into the air in consequence of a racing wager; or gives the alternative to be burnt or drowned; a railroad car is thrown off the track by the ignorance of the engineer, and hundreds of innocent persons lose their lives, or have their limbs broken, because the State has no control over the conduct of persons so irresponsible.

When the State should take measures to protect the individuals from imminent danger, it fails to do any thing whatever, and yet it interferes in private concerns; so far has the principle of personal liberty been developed.

America stands on the pinnacle of civilization—it is the land of humanity; and hence comes the invention of solitary confinement in the cells; the prisoner who has only been forced to the commission of crime to relieve his wants, is slowly doomed to death, and out of pure humanity they would not kill him at once—out of pure humanity justice is fostered only to do that which she ought not to do.

America is the land of respect for the laws; and no where else is the healthy and natural feeling of justice so easily wounded, or the wrong-doer so easily escapes unpunished.

"My house is my castle," say they, and this may be true, so long as a drunken Irish

watchman does not, in his zeal, exceed the bounds of his duty, while the justification for his doing so rests entirely on his own assertion.

America is the land of education, and acknowledged human worth; and for that reason have slaves, and declare in the Senate, that civilization, by means of slavery, is preferable to the same, through Germans, and other immigrants.

America is the land of old Roman virtues, and republican simplicity—proof of this, see the great men at Washington; the pleasure palaces of New York, Lucullus's on Long Island Sound, and the golden yacht of a huckster like Vanderbilt.

America is the land, where in appearance, they do much for the cosmopolite; it is the asylum and refuge of the persecuted, of the homeless, and those who are tired of war; it is the joint and indivisible right of republicanism, the proof of which is the contemptuous nickname of *Dutchman* applied by Know Nothings and natives—and their efforts to render the naturalization laws more severe.

America is the land in whose struggles for freedom all oppressed people sympathized and hoped that the day-spring of Liberty might illumine all the inhabitants of the globe; therefore they imprison men who, on their own responsibility, rise up against despotic power, and for this American ministers flatter despotic courts.

America is the third naval power, and yet is without a navy. "American citizen" is a title to which they attach high value—"I am a Roman citizen"—for this reason they imprison in dungeons in Europe, the American citizen on the slightest suspicion; and as to satisfaction, the government at Washington gives itself no trouble about such trifles, where they at any rate have the full assurance that the mastery of the world will be given to him who shall be chosen President of the United States at the next election.

America is the land of good education, and for this reason *street boys* throw stones at the heads of old people, and woe! to him who should attempt to chastise the ill-bred cur—justice exclaims, and the assailant of the youth, who cares so little for human worth, is punished without mercy.

In Greece, youth respects age; in America, age must respect youth. The Spartan youths stood up, at the Olympic games, to give seats to the aged; in America, the youth would turn the aged out of their seats: this is the great difference between Sparta and America.

America is the land of morals, of religions and good manners, and for that reason, the most savage crimes are constantly witnessed, forming a strange contrast with their good education and morals.

We discover in every field how small is their progress, since the time of their independence. The valuable documents which contain the masterly principles of Jefferson, still show themselves, although they are but counterfeits; the principles themselves have at this day no more the flesh and blood that they had seventy years ago. With the exception of its gigantic *material* progress, America has no reason to be proud of its progress in every thing which relates to principle, and enlightened humanity. Liberty is a great and estimable thing; yet it is too easily misunderstood.

Macaulay says in his history of England, "the cure of all the evils of freedom is freedom itself," and perhaps he is right.

The public promulgation of such infidel doctrines as the Free Germans avow must necessarily lead to a disregard of all law, human and divine; and it can be a matter of no surprise that these people had their last Sangerfest in New York on the Sabbath, an account of which is thus given by one of their own journals—the *New York Staats Zeitung*:

Yesterday (Sunday) was the scene of great hilarity—though the sky was dull and morose and annoyed us from time to time with rain. But the German quarters were full of life and gayety. The singers, adorned with ribbands, loitered in the streets, and recalled to the heart of every German the most joyous emotions. Friends and acquaintances of olden time met unexpectedly together—greeting each other and talking of “auld lang syne,” (our versification)—the Present and the Future—the sorrows which had befallen them, and the hopes which they cherish—all, over lager bier. In the morning they looked, over their cups of coffee, with anxiety to the sky—and to its wrinkle-covered forehead, as all now were afraid of losing any of the engagements of this occasion, devoted to social amusement. In the evening the Germans passed into the German quarters, from the streets, and in them they were very much amused. From divers lager bier saloons issued the noise of hilarity, songs, sounds of the harp, &c., and the girls peeped through the doors to see the handsome singers that were there. In one word, Gotham had a holiday.

They went to Vauxhall Garden, and here commenced, in spite of the Sunday Law, joyous life, loud song and the ringing of the glasses. The different societies alternated their songs, but the “Saengerrunde” was the best of them. “The Confession,” “Up, Comrades,” “The world is so beautiful,” were sung. We heard from the stranger singers Mendelssohn’s beautiful composition, “Who has built for thee this beautiful wood,” admirably executed. \* \* \* After a delightful afternoon, the society broke up at 8 o’clock. Herr Hartung contributed to the enjoyment by his excellent lager bier.

Nor need we be surprised at the following statement of a German clergyman, who is employed as a missionary, which he says is only a moderate statement of the evil at work in the German heart of the United States:—

“Infidelity and Sabbath profanation are raging among my countrymen like the cholera in the Orient. The thronged and curious events of the times have imparted to thousands of Germans a taste for the newspapers, and there are now, I think, eight German newspapers edited in New York, and their general bearing is anti-Christian. More destructive, perhaps, are their lodges. They are numerous, and have ostensibly for their object the support of the sick, but indirectly they destroy all Christian sentiments, and bring from the deep bottom of a sinful heart to the surface, Rationalism and Atheism. The lodge is the great speculation field of bad spirits.”

We thus see these foreigners in our midst, many of whom are not even citizens, nor have declared their intention of becoming so, and who do not understand and much less speak our language, proclaiming to the world in the addresses of their Social organization, and through the columns of their newspapers, that our republicanism does not suit their views; that there still lurks too much of the old anti-democratic leaven in our constitutional system of government; that our institutions are oppressive and unjust to the natural rights of man, alien to liberty, and upholding social forms which admit of no equality of position or true enjoyment of happiness; and that there exists here no such freedom nor equality as the spirit of the age and of progress demands. We see them not only proclaiming these views, but others which are equally obnoxious to the minds of Americans, and which, if carried out, would not only subvert



the Constitution, but the Christian religion; and what is still more, we see them actively engaged in organized efforts to carry out these views and have them introduced in the administration of the government.

Theirs is a democracy eminently European. No one can mistake its paternity, and, as was truly remarked by John Bell, in his very able and elaborate speech in the United States Senate, on the 13th April, 1852, on the subject of non-intervention, "it is the same type of democracy which has undone the cause of liberty in Europe; and its mission in this country can never be accomplished but by the ruin of liberty in America. Does not every one know that the most popular and leading champions of the cause of republicanism and democracy in Europe regard with positive contempt—nay, that they turn away with disgust—at the very mention of American republicanism? They scorn to receive our American, home-bred ideas of liberty. Why, say they—You have no philosophy—you have no true and lofty conceptions of the destiny of man and of human society; you are far in the rear of European enlightenment upon all these subjects! Such are the arrogant pretensions of the European champions of liberty. Some of the more reckless among them have the hardihood to declare that our whole system is false, and that, if it cannot be reformed, they are prepared to destroy it; that it is a model which misleads the friends of freedom abroad, and that it had better be pulled down than upheld in error!"

It is not the republicanism of Washington, Adams, Jefferson, Hamilton, Jay, Madison, and their illustrious compeers, who framed our Constitution, and gave form and life to our republican government; but it is the democracy of the leaders of the revolutionary movements in Europe, whose ultra, wild, and visionary schemes and theories have brought obloquy upon the very name of republicanism in Europe, and not only disgusted and alarmed the advocates of free government there, but caused those who were the ablest and best fitted to maintain its cause to despair. As Mr. Bell truly remarks, in another part of the speech already quoted from, "the curse of the present day is, that the theories and doctrines of the champions and advocates of liberty and republicanism have, all along, proceeded upon the same error which rendered all the philosophy of the schools of antiquity abortive, and, for the most part, utterly useless to mankind. They all proceed upon abstractions. All their theories of society and government, all their ideas of liberty and equality, and the forms they would institute to secure them, are founded upon some pre-conceived notion of what they conceive ought to be right and proper, without the slightest reference to any practical test—to any thing that has been proved to be sound and practicable in the past history of the world. To get *right*, and to be able to construct true and practical systems of government, they must first reconstruct their system of philo-

sophizing; they must reconstruct their own theories and adapt them to human nature as they have seen it developed in the past, as they see it displayed at the present day. They must adapt them to the races of men as they perceive them to exist in all their varieties and difference of capacities and propensities, without troubling themselves about the question of original unity or equality. They must found their theories upon experience, and not upon fancy. They must come to understand that the competency of man for self-government is not a simple or universal truth, but that it is a complex and conditional proposition, which may be true of one and the same people at one stage of their progress and not at another; and as to races, they must come to learn that every race has a civilization peculiar to itself, and physical and mental faculties of various grades of capacity for improvement and development, as all history testifies. In short, they must adopt the method of reasoning and theorizing pointed out by the great founder of modern progress, Bacon. When they shall have done this, they will have taken the first step towards a true progress in the science of government. Discarding all unmeaning cant and catch-terms about liberty and equality, they must come to know that there is a liberty, that there is an equality which is agreeable to nature, a liberty and an equality resting on a basis that will stand, and that all else is spurious, delusive, and mischievous."

The intelligent and more respectable journalists of Germany, like those in Ireland, seem to understand the evils under which this country labors from immigration, and appreciate the causes which have given so strong an impetus to the American movement. A late number of the *Cologne Gazette*, a highly talented and respectable journal, contains a very able article on the subject. The writer does not approve all the features of the American party, yet he fearlessly expresses his approval of its essential features. He says:

"Such a sudden and momentous party formation has the more claims upon our attention, as it is particularly directed against the European immigration. We are now enabled to form an opinion of Know-Nothingism: as it has just divested itself of its secrecy, shifting its platform into publicity."

There is then given a synopsis of the manifesto recently published in New York, and extensively copied in Europe.

"The party which calls itself the American, declares that it has wrapped itself hitherto in mystery only, because it would otherwise have been impossible for a new organization to be gotten up against old and existing ones, which would soon have combined their efforts against it. It declares these old parties decrepid. They had lost their original significance, and only served as a stepping-stone to the highest dignities of the republic for ambitious leaders. Unscrupulous party strife has often led the States to the brink of destruction, and particularly threatened to separate the North from the South. It was, therefore, the intention of the American movement to save the Union and to restore to honor those principles upon which it was originally established."

And he frankly adds:—

“Thus far we undoubtedly must agree with the American party. Party spirit has been nowhere so much abused as in the United States. Nowhere is held out a higher price to party aims. Every four years not only a new President is elected, but according to the issue the whole army of officials changes. The victorious party conquers a hundred thousand offices, and the elections—the highest privilege of free citizens—assume the low character of place-hunting. If the frequent change of the chief is a necessary evil for a republic, it may nevertheless be possible to adopt such measures as would secure to the officers of State, more than has been the case hitherto, worth and merit.” The writer then recurs to the manifesto in the following manner: “But the above is only the introduction; the American party, in proceeding to the real contents of its programme, complains of the elections being often decided by immigrants unacquainted with the institutions, laws, and even the language of the country, only used as mere political tools.” He then informs his readers of the number of immigrants annually arriving in the United States, among whom he says are to be found the outcasts of every country, while the more respectable part cling in their hearts to a foreign nationality, as is represented in the manifesto. The Know Nothings, he continues, intend to protect their country against this immigration, and the means to attain their object, he supposes, would in all probability consist in rendering the right of citizenship more difficult to obtain, by extending the term of five years, at present prescribed by law, and the government becoming less liberal in granting lands to immigrants. The final conclusion to which the writer comes is an approval of the intentions and spirit of the American party. He says: “This much we must grant to the party, that immigration has produced many evils. Foreign immigrants, political adventurers of all nations, have endeavored to inveigle the citizens of the United States in all sorts of enterprises, in order to entangle them in European quarrels. Among these foreigners are the Irish, filled with a bitter hatred against England, who play a considerable part in the press. And to make of such foreigners ambassadors, as the example of Soule shows, might jeopardize the peace of the world. The American party acts, beyond a doubt, in the spirit of the founders of the States, and deserves acknowledgment not alone of America, but of the world, for curbing foreign desires of that description—love for war, conquest, and annexation.” The article considers the manifesto of the American party as earnest and dignified in its tone, and says: “If its watchword, ‘America for the Americans,’ is to be understood so as to leave our interests intact, we shall not have to complain.” The writer has discovered from his distant stand-point what are the necessities of our nation, and he is not afraid to acknowledge that the course which Americans have determined to pursue is the only correct one. In this opinion he must be borne out by every man who is unblinded by prejudice, whether foreign or native. The principle is plain enough to every one who will dare to look at it boldly and in a national view. When the glory or the destiny of a great nation is to be accomplished, all private interest and all petty feeling of self must be thrust aside, as unworthy of the man and the patriot. And every intelligent foreigner in this country should feel that what will accomplish the greatest good for the land of his adoption, what will give to America the highest rank and the most thorough nationality, that should receive his warmest support, and his heartiest concurrence.

Another cause of irritation, which contributed much to arouse a sentiment of opposition among the Americans to foreign influence, consisted in the servility displayed by many of our leading public men to this

influence, and the reception given to Father Matthew and Louis Kossuth by Congress, compared with the treatment received by some of our best and greatest citizens who had equal claims to public respect. This is forcibly stated in a letter written lately by ex-Senator Clemens, of Alabama, as follows:—

In the summer of 1849, Father Matthew, an Irish Priest, who had acquired a great celebrity as Temperance lecturer, paid a visit to the United States. He came to Washington and a resolution was at once introduced to allow him the privilege of the floor of the Senate. This was opposed by Mr. Calhoun on the ground that it was lowering the dignity of the Senate and cheapening its honors. By myself and others, upon the further ground that he had, while in Ireland, indulged in denunciations of slavery, and taken part with the abolitionists against the South, which I considered an unwarrantable intermeddling with matters that in no way concerned him. Notwithstanding these objections, the resolution passed by a decided majority, and Father Matthew took his seat upon the floor of the Senate. Not long afterwards, Gen. Pillow, who bore upon his person the marks of honorable wounds, recently received in the service of the Republic, visited Washington, and found, to his mortification, no doubt, that the place which had been occupied by a Catholic Priest, was inaccessible to him, a native born American, and late Major General in the wars of his country. Nor was he alone a sufferer. Every officer who served in the Mexican war, not a member of Congress, or an existing State Legislature, was in like manner excluded, with, perhaps, the single exception of Gen. Scott, who had received a special vote of thanks during the war of 1812, which of itself entitled him to admission. It will not do to tell me that respect for the cause of temperance produced this astonishing result. The Congress of the United States are not remarkable as disciples of temperance, and that very day there were perhaps not six members of the Senate who did not drink wine at dinner, or brandy before it.

The Irish vote was the controlling cause—the desire to conciliate that large body of naturalized citizens who looked up to Father Matthew as a superior being. It was this which gave to the foreigner and the Catholic an importance above and beyond that of the soldiery whose blood had been poured out like water on the plains of Mexico. It was this which induced the Senate to forget what it had been—to throw aside the severe dignity which had so elevated them in the minds of men, and to exchange the character of Roman sages for that of servile sycophants. There was a time when that high body was composed of sterner stuff. There was a time when such a proposition would have been treated with the scorn it deserved. But that was before the Irish Exodus. Now, if we venture to question foreign merit it must be done with “bated breath.” If we venture to deny any foreign demand, however imperious, we are threatened with political annihilation, and yet I am told we are in no danger from foreign influence. When the Senate of the United States has bent before the storm, where are we to look for that public virtue which is sturdy enough to resist it?

The other case to which I allude was still more outrageous. L. Kossuth had been actively engaged in exciting a revolution in Hungary, but when the hour of trial came he shrunk from the danger he had evoked, and flying across the frontier, took refuge beneath the Crescent of the Turk. An immense amount of sympathy was at once manufactured for him, and our government, not to be behind the public expectation, dispatched a vessel of war to bring him to our shores. Of course this was done under the specious name of sympathy for struggling freedom. But if there had been no

German votes in the United States, I am very much inclined to the opinion that sympathy would have expended itself in some less costly manner. But, not satisfied with bringing him here, both branches of Congress passed a resolution inviting him to Washington. He came in all the pomp which surrounds the Monarchs of the old world—armed guards paraded before his door to keep off the vulgar populace. And we who would not have tolerated such conduct for one hour in the President of the Republic, not only submitted to it on the part of this foreign mendicant, but actually invited him within the bar of the Senate. He entered with all his guards about him. The clank of foreign sabres awaked the echos in the vestibule of the Senate, and an eager crowd of *Republicans* looked on with wondering admiration at the pageant. If the dead are permitted to witness events upon earth, what must have been the feelings of the stern Fathers of the Republic when they saw the velvet uniforms of a foreign body-guard within the sacred precincts of the Senate! Let us suppose them gathered about the immortal Washington, as they were wont to gather in the days that tried men's souls, gazing in sorrow and silence upon the disgraceful spectacle. There is Warren, Greene, Sumpter, Marion, Lee, Shelby, Williams, Wayne and a hundred others of the mighty dead. They remember that it was German cannon which thinned their ranks at Mud Fort and Red Bank. They remember that German shouts rang over the field of Brandywine. They remember that German bayonets were dimmed with patriot blood at Monmouth. They remember Chad's ford, and Chew's house, and many another field, where they met the hired mercenaries that England's gold had brought across the Atlantic to fasten manacles upon a people who had never injured them; and remembering this, they turn to each other with the mournful inquiry, "Are these our sons? Are the traditions of the revolution already forgotten?" Ah! shade of departed Patriots, there is an engine of power in our land of which in your day you did not dream! There are a few hundred thousand German voters among us, and every Demagogue who aspires to the Presidency, and all the satellites that glimmer about him are vying with each other in base concessions to German pride and German feeling. But the picture is a sickening one, and I turn from it. God knows it was bitter enough at the time, and I have no wish to dwell upon it anew.

Not satisfied with the honors heaped upon Kossuth, Congress determined to extend to him more "material aid." Mr. Seward discovered that he was the nation's guest, and introduced a bill assuming his expenses as a national debt. The account turned out to be somewhat extravagant. This plain republican martyr to liberty only lived at the rate of \$500 per day. Consuming in the twenty-four hours Champagne and Burgundy which cost more than it would take to feed a respectable family in North Alabama for a twelvemonth. At that very moment there were bills upon the Calendar of the House for the relief of destitute widows and orphans, whose husbands had died in defence of the country, which Congress has not had time to attend to even to this day. Not so with Kossuth—he drank his wine—eat his *pates de fois grâces*, and Congress instantly footed the bill. Do you ask the reason? I answer, widows and children had no votes. The foreigners who were to be conciliated by adulation of Kossuth had many. Others will say it was not Kossuth, but his cause—that he had been battling for freedom, and they wished to mark their appreciation of his efforts. As a tribute to the spirit of Liberty it might have been well enough if we had not been so lamentably deficient in paying that tribute to our own citizens. When General Jackson had driven the British army from New Orleans, and rescued the country from one of the most terrible dangers with which it was ever threatened, he was arrested in the very hour of his triumph and heavily fined for the rigorous discharge of his duty; and yet Congress permitted more

than a quarter of a century to roll away without acknowledging the wrong, or attempting to repair it. He was a Native American—there was no foreign sympathy in his behalf—no foreign votes to conciliate. When General Houston returned to the United States with the laurels of San Jacinto fresh upon his brow, bringing an empire in his hands to lay at our feet, no Congressional invitations celebrated his arrival. No bills were passed to pay his expenses. He was a Native American, and nothing was to be gained by laudations of his chivalry or his patriotism. When General Scott had concluded one of the most wonderful campaigns ever recorded in history, he was recalled almost in disgrace, and his army, which he had found untrained militia and converted into veteran heroes, was transferred to one of his subordinates. Yet Congress offered no word of sympathy, applied no balm to the wounded feelings of the matchless soldier. He was a Native American, and the voice of condolence was mute. Had General Shields received similar treatment, a howl would have been raised from one end of the continent to the other, and half the tongues in Congress would have grown weary lamenting his wrongs.

With these facts before me, and all know them to be facts, I must be pardoned for maintaining that there is danger from foreign influence, and the sooner it is boldly met the better.

Another cause of trouble consists in foreign born citizens keeping alive, by social and military organizations, their national habits, feelings and prejudices, to the prejudice of our own nationality. In a speech made in the U. S. Senate, on the 25th of January, 1855, James Cooper, Senator from Pennsylvania, referred to this fact, and condemned the practice as follows :

I desire to advert briefly to another mischief, not wholly, but, nevertheless, to some extent, the result of admitting into the country the idle and turbulent spirits sent hither in order to relieve their own governments of their dangerous presence. I refer, Mr. President, to the practice now prevalent in the larger cities, of organizing volunteer companies and battalions composed wholly of foreigners, bearing foreign names, wearing foreign uniforms, and parading under foreign colors. In New York, Boston, and elsewhere, you hear of German Yagers, French Chasseurs, Irish Greens, Swiss Guards, &c.; and I am informed that in the first named city there is a brigade composed entirely of Irishmen, and called the Irish brigade. Now, sir, this is all wrong, and would be tolerated by no other government on the face of the earth.

When, by the liberal character of our institutions, and the blessings and advantages which our laws confer, the subjects of other governments were invited to our shores, it was never intended they should enter into separate organizations, civil or military, or cultivate an *esprit du corps* among themselves, calculated to leave them foreigners in feeling and in habits, though dwelling in our midst, and owing allegiance to our laws. Naturalized foreigners should renounce all allegiance to their former governments, both in substance and in form, and identify themselves with the country of their adoption in the most unreserved manner. Let them, if they please, unite with our volunteer and militia organizations for the purpose of acquiring a knowledge of the use of arms ; but let them beware of forming separate organizations, by which jealousy may be excited, and doubts of their attachment to their adopted country, and its people, created. Such organizations of naturalized citizens, officered by foreigners in strange dress, and mustering under strange flags, will never be tolerated by the mass of the American people.

Their own banner—the glorious stars and stripes—borne over their own and their fathers' heads, both by land and sea, on many a bloody day, is, with them, a holy emblem—holy as the Ark of the Covenant to the Israelites of old, and associated with memories that consecrate it in every American heart. No heraldic blazonry, no matter how ancient, no matter who may have borne it, or over what fields of deathless renown it may have floated in triumph, can ever be compared, in our eyes, with the simple “stars and stripes.” To raise another is to destroy the idea of the unity which it represents, to intimate a doubt of the perpetuity of that unity, and manifest a preference that is repulsive to every feeling of our hearts. Foreigners, therefore, who have renounced their allegiance to kings, and made themselves sharers with us in the heritage of liberty and all its concomitant advantages and blessings, should cast behind them the insignia of tyranny, and rally with their native brethren in hearty accord, under the banner of freedom—the starry flag of the republic. If they be Americans in heart, it will cost them nothing to organize, and if need be to fight and die beneath its folds. This flag has waved over the heads of heroes; and though it was ridiculed but a few years since, as a piece of “striped bunting,” it now floats in every sea, in proud equality with the tri-color of France and the St. George of England; its shadow affording protection to those who have a right to claim it, in every quarter of the globe. Why, then, should naturalized citizens apparently repudiate it by raising another? And why, above all, organize separately when duty and sound policy alike urge them to make their fellowship with us perfect by unity of action in every possible case? If they have brought with them feelings of attachment to their native land, let them cherish them in their hearts, for such feelings are amiable and exist in every generous bosom. No one will find fault with them for indulging in memories which carry them back to the homes of their childhood; and no one will complain, even if they should confess that there are things and places dear to their hearts in the land they have left. All we ask of them is, that, having been received as brethren, they should conduct themselves as such, and not as rivals or enemies.

It may be alleged, Mr. President, that these people are none the less attached to our institutions because they have formed military associations, with a view to qualify themselves to defend and uphold them. I do not charge them with a want of devotion to our institutions. I have only complained that they have formed separate organizations; that they have not, as both policy and safety require, associated with them native born citizens; that these separate organizations are calculated to excite jealousy; and that between these foreign organizations and similar native organizations there is danger of collision, and of such a character as is frightful to contemplate. If, instead of being formed of foreigners alone, these companies and battalions had been composed of something like equal proportions of natives and foreigners, the danger that is to be apprehended would cease to exist, or exist only in a modified form. From these organizations there is nothing to be gained, even by those who compose them. On the contrary, the suspicion and jealousy which they excite operates to their disadvantage. And here, Mr. President, allow me to say, that while I have not questioned the patriotism of the mass of those who compose these military organizations, I think there is reason to believe that many of the individuals belonging to them are desperate characters, who would not greatly deplore such a collision as is not improbable in the present excited state of the public mind. The great mass of their own countrymen—those who come here, in good faith, to seek a livelihood and a home, are seldom found connected with these associations as members. Engaged in subduing the wilderness of the far West, or pursuing their avocations in the cities and towns, they have neither time nor disposition to

unite with them. But too generally, if the testimony on the subject is to be believed, they are composed of the idle and dissolute, of those who, fond of the excitement of military shows, have no fixed purpose in view, while the number of the substantial men of business, whose thrift would be a guarantee for the preservation of order, is comparatively small. Under these circumstances, it is time that steps were taken to correct the evil.

The violence which has characterized the conduct of foreigners at the polls on election day, especially in our cities and towns, and eagerness displayed by them, especially the Irish Catholics, for office, wherever the side they took has been successful, and the success which attended their applications to the exclusion of native born citizens, is another cause of the feeling that now exists against them. Thus a late analysis of the Police of the city of New York, published in the journals of that city, shows that on a recent investigation made under the order of the city authorities, it was found that of 1149 men, composing the police force of the city, 718 only (or less than half) are natives of the United States; and of the foreigners, 305 are Irish. It is furthermore stated, that 39 of the police now in active service have been tenants of a State prison—but whether as convicts or political offenders does not appear. Fourteen of the men declined answering the inquiries on the two points referred to, but whether this circumstance is to be construed to their praise or their prejudice it is not our province to say. That our policemen should be above all reproach is not more clear than that they should be thoroughly conversant with, and intelligently attached to, the laws and institutions of the country.

So the conduct of the present national administration; the appointment of Judge Campbell as Postmaster General; the number of foreigners sent as ministers abroad; the undue proportion of foreigners appointed to minor offices to the exclusion of native born applicants; and the proscription from office of all those who had any connection or were supposed to sympathize with the American movement;—all united to give form and direction to the strong and universal sentiment and feeling of opposition to foreign influence, which the other causes enumerated had already created. The feeling was abroad, and it was but necessary to have an exhibition of partiality for foreigners manifested like that by the Pierce administration, to start, as it did, the cry of *America for Americans*.



## CHAPTER XXVI.

## MISTAKEN VIEWS OF THE UNITED STATES GOVERNMENT.

It has been very correctly said that "to make a government the blessing it ought to be to a whole people, it is necessary, in framing it, to resolve the benevolence of its general scope into two specific aims—one, the present case of men's rights under it; the other, its own preservation, as material to their future safety;" and that the latter "is by far the most difficult part of the business." This is undoubtedly a truism which was fully realized by the framers of our Constitution. They were however equal to the task before them, and established a government having the aims before stated in view, and possessing all the requisite powers to secure the present rights of its citizens, and to preserve and maintain its vigor with a view to their future safety. Discarding the three forms of political organizations of which it was then supposed all human governments were either pure specimens or mixtures, they adopted neither a democratical, aristocratical, nor monarchical form, but contrived a scheme of their own, materially different from them all, and called it *Republican*.

Foreigners, even the most learned among them, do not seem to comprehend, however, its distinctive characteristics and peculiar features, and therefore hastily jump to the conclusion that it is a *Democracy*. Even the learned De Tocqueville seems every where to assume it as a recognized and indisputable fact, and Lord Brougham not only ventures so far as to state it to be so, but applies to it the epithet by which it is usual to distinguish the technical form of government known by that name. The truth is, however, otherwise; and it is, perhaps, owing more to this error and misconception of the true character of our government, on the part of foreigners, than all other causes combined, that they come to this country with the views they do, as to the nature and operations of our institutions, and claim for themselves, as a right, what native born citizens have hitherto conceded as a privilege, but never as a right.

Many features of the Federal Constitution may be referred to, as negating all idea, on the part of its framers, of establishing an unlimited and unrestrained Democratic government, into which those illumined with the ideas of European revolutionists, who have sought a refuge in this country, would now convert it. As the discussions in the Convention, and the conclusions at which the framers arrived, abundantly show, no

such ideas were then entertained, like those now promulgated by the so-called Free German Association. *We demand!* say these foreign agrarians—

1. Universal suffrage.
2. The election of all officers by the people.
3. The abolition of the Presidency.
4. The abolition of Senates.
5. The right of the people to recall their representatives (cashier them) at their pleasure.
6. The right of the people to change the Constitution when they like.
7. All law-suits to be conducted without expense.
8. A department of the government to be set up for the protection of immigration.
9. A reduced term of acquiring citizenship.
10. Abolition of all neutrality.
11. Intervention in favor of every people struggling for liberty.
12. Abolition of laws for the observance of the Sabbath.
13. Abolition of prayers in Congress.
14. Abolition of oaths upon the Bible.
15. The supporting of the emancipation exertions of Cassius M. Clay by Congressional laws.
16. Abolition of the Christian system of punishment, and the introduction of the human amelioration system.
17. Abolition of capital punishment.

In view of these misapprehensions, it may not be out of place to make an inquiry into the peculiar characteristics of our government, and to show wherein foreigners, and but too many natives, misapprehend its scope and power. It is not a democracy, as they suppose, subject to every fickle change and caprice of the people, without constitutional restraints, balances and counterbalances, and incapable of keeping to any course but that of the popular current, however momentarily erroneous. As is very forcibly remarked by Mr. Warner, in an article in the *American Review* of May, 1849, "the fathers of the country never dreamed of such a thing; and though we are not at present just what they meant us to be, we are still no democrats in the form and theory of our system. At the polls, no doubt, and in the newspapers, an unscrupulous man will say any thing to gain his purpose. In this way democracy has become a word of cant among our own citizens; and so would diabolism, if the people loved to hear it." But "to call the government a democracy, is either to mistake or slander it. To call the people democrats, or to profess, with fawning cant, to be democrats at their service, is to make them objects either of insult or cajolery. The truth appears to be, that to a

very great extent the popular origin and working of our institutions has involved men's minds in a confusion of ideas as to the name and character they belong to. And as misapprehension here is mischievous, drawing practice after it, perverting the views of our too frequent constitutional conventions, and so putting every thing at hazard, the cloud must, if God permit, be dissipated, and the clear, benignant sky of the country's morning brought back."

Our system is *Republican*, as contradistinguished from *Democracy*, or, to adopt the language of Mr. Madison, in *The Federalist*, it is "a government in which the scheme of representation takes place." It follows, therefore, that it is, unlike a democracy, one of delegated powers; and, though like it, free and of the same character in the popularity of its aims and general scope, the difference between them is very great. *Democracy* is one of the simplest forms of government, and has a polity which trusts no one and respects no body, but the people at large, making every man, without regard to qualifications or character, a ruler for the whole; while a *Republic* is complicated in its organization, all its measures being taken by means of delegated power, and the people standing aloof from its acts, content with a supremacy over these, and their agents, by influence only, through public opinion and the ballot box. A nice and just machinery was therefore requisite; checks, balances and braces were necessary; moral causes were to be foreseen and counter-vailed, and moral influences to be anticipated; every organic weakness had to be searched out in advance; a guard to be set upon every point of probable exposure; and the force of every dangerous tendency measured and neutralized before events developed its existence. It was a herculean undertaking on the part of the revolutionary statesmen. See what they had to do. Much of it is succinctly set forth by Mr. Warner in the article of the *American Review*, already quoted from. He says:

In the first place, there was wanting a vast agency mechanism for ends of ordinary government. And things must be so managed as to bring into the service of the country a variety of personal qualities and talents. There must be men for making laws, men for seeing laws executed, men for judging in detail of common justice between party and party, men of all sorts of ministerial labor in aid of the more prominent functions of political life. In some of the walks of duty, great abilities were necessary, in some professional skill; a measure of undoubted character for principles in all.

How was the selection to be made? There was one point of difficulty. To some extent, the people might be supposed competent to choose their own agents. This was eminently true in reference to the legislative and chief executive functions; involving services which, though of vast importance, were not of a kind to call for much technical knowledge or specific preparation, so that the leading business of the government, and that upon which all else depended more or less, might be safely organized in the way the general liberty required, namely, by votes sufficiently numerous to express the

popular sentiment of the country. Had it not been so, the republican scheme must have altogether failed as impracticable. But legislation was no mystery of art, and the people could not well be mistaken in the kind of evidence by which the fitness of a legislative agent should be indicated. High standing for integrity, good sense and acquirements, with some experience in affairs, was all they wanted. So also, the executive function (apart from its judicial subdivision) could be judged of in a general way by everybody. And these are the parts of the system where it was especially momentous that the people should be as closely and sensibly present as possible. But in descending from hence to other branches of the public service, such as the courts, particular bureaus, &c., the case became harder for the common mind to manage. It was not enough that candidates for such places were well reported of. There was to be a special adaptation of the men to the offices, a fitness of artificial skill, concerning which the multitude were scarce capable of forming an intelligent opinion. It would, therefore, be safer as to stations of that sort, to entrust the appointing power with persons of eminence in the government, who from their position might be expected to exert it more cautiously and discreetly than the people could. And, fortunately, there was nothing in the economy of the public liberty that was likely to take harm from such an arrangement.

Still, beyond the question how far it was best to organize the public service by popular vote, how far by substituted agencies (no inconsiderable question by itself), ulterior matters were to be attended to. There was danger of bad men coming into office through ignorance or incaution on the people's part, or by the arts of deceivers; and there was danger of men becoming bad under the perverting influence of office, after their elevation to it. How were evils like these to be guarded against?

One expedient was that of dividing public power into several parts, called jurisdictions, and setting these in counterpoise against each other. Hence the well known legislative, executive, and judicial departments of government, each under separate charge, and fenced, as far as practicable, against encroachment from the rest. The early constitutions lay great stress upon this.

Another expedient was the territorial division of the country into States, counties and townships; or rather the making use of these divisions (they existed already) to distribute the dispatch of public business over a wide surface, and so to prevent a plethora of the central system, and keep down the fever of the head by drawing off as much as possible of the elements of active power into the extremities.

Other securities of a personal nature were added to these; such as age, residence, property, religion, and the like; required partly in candidates for office; partly in electors, more or less in both. Nor does it need much knowledge of human history to determine that all the guards and cautions which the case admitted of, were not likely to be more than enough.

But, in the second place, *the sovereignty of the polls* was also to be looked after.

And here the first inquiry would naturally be directed to the proper vesting of this all-important power. Who should have it? From whom should it be withheld? For observe, it belonged of right to nobody, save as the Constitution should give it, being a mere functionary power to be held, not for the special emolument of individuals, but in trust for the commonwealth. Who, then, in matter of safety and prudence, should have it, and who not? Women and children were of course out of the question. It is incompatible with female delicacy to join the scramble of an electoral contest. And as for children, they could not understand the thing at all; their votes would be no better

than a lottery. So that two-thirds, three-fifths of the entire community, are thus set aside at once.

Would it do to clothe fresh-landed aliens with a suffrage of this kind? How much better than children could they understand the use of it? Or what stake have they in the country that could be supposed to give them a proper sense of concern in the consequences?

Finally, are there not native citizens in abundance to whom such a franchise cannot be prudently confided?—men without virtue, without intelligence, without property, without patriotic attachment, without anything to bind them to the country, or fit them for a voice in its affairs?

It is difficult, you will say, to apply tests. It is, indeed. But it is harder still to preserve free institutions without them. Our antipathy to tests is apt to become morbid. In some forms they are odious things, but in some they are necessary. So, at least, the fathers thought; nor has their judgment in the matter fallen yet into quite universal disrepute.

I conclude, in the third place, with one suggestion more. The fathers had to suit their measures to the *social and civil elements* of the land they were providing for. What were those elements? Different classes of men, distinguished from each other, not in rank or privilege, but in education, refinement, property, habits and pursuits. Was there not something due to such peculiarities—to each and every one of them in particular? Would it do to frame the government with a view to the rich only, or the educated and refined? Would it do to frame it in utter neglect of these portions of the general mass of citizens, as if their existence were unknown? Government is moral power in the hands of a few over the many. The balance of physical force is with the governed. Supposing, then, the people to be free, the political system must in prudence be so fashioned as to please them, lest their physical force should not be quiet under it. And how, as a whole, are they to be pleased and satisfied, unless their prominent diversities of character, business and condition, are all taken into view, and made something of in the economy of the Constitution?

Let us illustrate in the article of wealth or property. Some men are very rich, some poor, and some in middle circumstances. Would it be wise to take no note of this in framing a government for all? Would it be safe? Suppose numbers disregarded, and wealth made a test of admissibility to every kind of office whatsoever; is it likely the poor and middle orders of society would be satisfied? Or if property were disregarded, on the other hand, and not only the right of suffrage, but office too, in all its grades and forms, thrown indiscriminately to the multitude, would this be satisfactory to the more opulent classes? There might, in one case or the other, be no sudden outbreak of impatience, but there would certainly be a leaven of discontent in the body-politic, calculated to put it in a ferment by and by. All this should be avoided; and with reasonable care it may be. What is easier than to make some offices accessible to all ranks, and confine others to men of good estates? Or, if you wish a property qualification to be general and uniform, let it be adjusted to the notion of a *medium* between rich and poor. As regards the franchise, there is no convenient alternative but to try for such a medium. For, since the men who have nothing are always more numerous than the rich, and often compose a majority of the whole people; if you make the suffrage universal, you annihilate the influence of property; while, on the other hand, if you give the poorer classes no vote, you annihilate the influence of numbers. Now, you should do neither of these things. Take the world as it is. Let those who pay the taxes, and bear the chief burdens of the State, have an influence directly proportioned to their use-

fulness and merit as citizens. This is just; and you cannot otherwise make them feel that they are rightly dealt with. It is therefore politic too. Yet do not hurry off to the other extreme, and stifle utterly the voice of mere numbers. Men who have nothing, are yet men; and not a few of them are citizens of high desert. Their poverty may be owing to other causes than sloth, intemperance or dissipation. It is not always the lot of industry or enterprise, or both together, to make large acquisitions. In a free country, the voice of the poor man, as well as of the rich, must have its own share of political weight. There will otherwise be a feeling of injury here also. How, then, are you to manage? As to office, there may be something like an *apportionment*, by opening the doors of certain employments to the property classes only, while others are made accessible to all; but in the matter of the franchise, where one uniform rule may be desirable, I see no better way than to *mediate* between the very rich and the very poor, by giving the right of suffrage to the intervening portion of society, which approaches both extremes, and is capable of feeling for the interests of both, so as to vote impartially, and with probable satisfaction to the whole community. At any rate, the founders of our government seem to have acted upon a policy of this kind. We do not enter practically into such refinements now-a-days. We are too busy, and prefer a more dashing style of politics. Constitution-making is become a humdrum business. "Nature's journeymen" can do it, and with cigars in their mouths. It was not so at first. A republican State was then regarded as a piece of moral clock-work; or complicated mechanism, full of parts requiring the most careful and precise adjustment. And there were three great topics of interest combined in the general subject. First, government proper; secondly, the vesting and qualification of the franchise of election; thirdly, (not apart from the others, but in close connection with them) the accommodation of the political to the civil and social system, for ends of justice and of popular peace. These topics claimed and received attention, each on its own account, and with an anxious regard to its own occasions. The result was an economy of peculiar and very decided character.

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## CHAPTER XXVII.

### THE EXECUTIVE.

LET us now take a brief survey of the details of the *Republican* system thus established by our forefathers, under so many embarrassing and perplexing difficulties—details material to their plan and policy, and anxiously and wisely adjusted by them. They belong mainly, though by no means altogether, to the State economies, and may be classed as relating, *first*, to the character and circumstances by which it was supposed that candidates for office ought to be distinguished; *secondly*, to the mode of appointment deemed most likely to secure a fair result; *thirdly*, to the qualification of electors where the election was popular; *fourthly*, to the term and tenure of office when attained; and *finally*, to some additional

means of safety, calculated either to fortify the personal virtue and fidelity of the functionary in the execution of his trust, or to guard against evil from his misconduct in it.

The Constitution requires that the President shall be a *natural born* citizen of the United States, or to have been a citizen thereof at the time of its adoption, and that he shall have attained to the age of thirty-five years, and shall have been fourteen years a resident within the United States. Considering the greatness of the trust, says Chancellor Kent, and that this department is the ultimately efficient executive power in government, these restrictions will not appear altogether useless or unimportant. As the President is required to be a native citizen of the United States, ambitious foreigners cannot intrigue for the office; and the qualification of birth cuts off all those inducements from abroad to corruption, negotiation and war, which have frequently and fatally harassed the elective monarchies of Germany and Poland, as well as the pontificate at Rome. The age of the President is sufficient to have formed his public and private character; and his previous domestic residence is intended to afford to his fellow-citizens the opportunity to attain a correct knowledge of his principles and capacity, and to have enabled him to acquire habits of attachments and obedience to the laws, and of devotion to the public welfare. *Kent's Commentaries*, vol. i., p. 272.

The mode of his election presented another difficult and embarrassing question. "This is the question that is eventually to test the goodness and to try the strength of the Constitution," is the language of Chancellor Kent, and he proceeds to comment on the subject, and the state of the mode of election, as follows:

"If we shall be able, for half a century hereafter, to continue to elect the chief magistrate of the Union with discretion, moderation and integrity, we shall undoubtedly stamp the highest value on our national character, and recommend our republican institutions, if not to the imitation, yet certainly to the esteem and admiration of the more enlightened part of mankind. The experience of ancient and modern Europe has been unfavorable to the practicability of a fair and peaceable popular election of the executive head of a great nation. It has been found impossible to guard the election from the mischiefs of foreign intrigue and domestic turbulence, from violence or corruption; and mankind have generally taken refuge from the evils of popular elections in hereditary executives—as being the least evil of the two. The most recent and remarkable change of this kind occurred in France, in 1804, when the legislative body changed their elective into an hereditary monarchy, on the avowed ground that the competition of popular elections led to corruption and violence. And it is a curious fact in European history, that on the first partition of Poland in 1773, when the partitioning powers thought it expedient to foster and confirm all the defects of its wretched government, they sagaciously demanded of the Polish Diet that the crown should continue elective. This was done for the very purpose of keeping the door open for foreign intrigue and influence. Mr. Paley condemns all elective monarchies, and he thinks nothing is gained by a popular choice worth the dissensions, tumults and interruptions of regular industry, with which it is

inseparably attended. I am not called upon to question the wisdom or policy of preferring hereditary to elective monarchies among the great nations of Europe, where different orders and ranks of society are established and large masses of property accumulated in the hands of single individuals, and where ignorance and poverty are widely diffused, and standing armies are necessary to preserve the stability of the government. The state of society and of property in this country, and our moral and political habits, have enabled us to adopt the republican principle, and to maintain it hitherto with illustrious success. It remains to be seen, whether the checks which the Constitution has provided against the dangerous propensities of our system will ultimately prove effectual. The election of a supreme executive magistrate for a whole nation, affects so many interests, addresses itself so strongly to popular passions, and holds out such powerful temptations to ambition, that it necessarily becomes a strong trial to public virtue and even hazardous to the public tranquillity. The Constitution, from an enlightened view of all the difficulties that attend the subject, has not thought it safe or prudent to refer the election of a President directly and immediately to the people; but it has confided the power to a small body of electors, appointed in each State, under the direction of the Legislature; and to close the opportunity as much as possible against negotiation, intrigue and corruption, it has declared that Congress may determine the time of choosing the electors, and the day on which they shall vote, and that the day of election shall be the same in every State. This security has been still further extended, by the act of Congress directing the electors to be appointed in each State within thirty-four days of the day of election." *Ken's Commentaries, vol. i., p. 273.*

A great variety of opinions existed among the framers of the Constitution, and much discussion took place in the Convention, in relation to the Executive Department, how it was to be organized, and how, and in what manner, to be filled. By reference to the *Madison Papers*, containing the Debates of the Convention, it will be found, however, that the members *unanimously* agreed, without debate, to the provision requiring the President to be a natural born citizen, &c.; to be thirty-five years of age, and a resident for fourteen years. 5 *Elliott's Debates*, 521.

In agreeing to the mode of election great difficulty was experienced. In the programme submitted by Edmund Randolph, which was denominated the Virginia plan, it was proposed that the Executive should be chosen by the National Legislature. James Wilson was in favor of an election by the people, but said he "was almost unwilling to declare the mode he wished to take place, being apprehensive that it might appear chimerical." Yet he was in favor "to derive not only both branches of the Legislature from the people, without the intervention of the State Legislatures, but the Executive also, in order to make them as independent as possible of each other, as well as of the States." Roger Sherman thought "an independence of the Executive on the Supreme Legislature" was "the very essence of tyranny," and therefore favored the appointment of the Executive by the Legislature, and of making "him absolutely dependent on that body." John Rutledge suggested "an election of the Executive by the second branch only of the National



Legislature." Col. Mason favored Mr. Wilson's idea, but thought it impracticable. Elbridge Gerry "opposed the election by the National Legislature," because "there would be a constant intrigue" between the Legislature and the candidates, and "votes would be given by the former under promises or expectations from the latter." He liked Mr. Wilson's proposition, but "feared it would alarm and give a handle to the State partisans, as tending to supersede altogether the State authorities." He preferred "taking the suffrages of the States, instead of electors, or letting the Legislatures nominate, and the electors appoint;" but he "was not clear that the people ought to act directly even in the choice of electors, being too little informed of personal characters in large districts, and liable to deceptions." Mr. Wilson's proposition was voted for by but two States, Pennsylvania and Maryland, and the proposition of Mr. Randolph was agreed to by the following vote: *Aye*—Massachusetts, Connecticut, New York, Delaware, Virginia, North Carolina, South Carolina, and Georgia; *Nay*—Pennsylvania and Maryland. *Elliott's Debates*, vol. v., pp. 142-3-4.

Some time afterwards Elbridge Gerry moved a reconsideration of the subject, and proposed "that the National Executive should be elected by the executives of the States, whose proportion of votes should be the same with that allowed to the States in the election of the Senate." Edmund Randolph strongly opposed this proposition, and it was negatived, nine States voting against it, and Delaware being divided. *Ibid.*, 174. Alexander Hamilton was in favor, and read a proposition to that effect to the Convention, of the executive authority being "vested in a Governor, to be elected to serve during good behavior—the election to be made by electors chosen by the people in the election districts." *Ibid.*, 205. When the subject again came in form before the Convention, Gouverneur Morris took strong ground against the election by the National Legislature, and moved to strike out *National Legislature*, and insert *citizens of the United States*; but his motion received but one vote, that of Pennsylvania; whereupon Luther Martin moved that the Executive be chosen by electors appointed by the several Legislatures of the States, which was also negatived, it receiving only the vote of Maryland and Delaware. *Ibid.*, 323.

Subsequently a reconsideration was had, when Oliver Ellsworth moved that the Executive "be chosen by electors, appointed by the Legislatures of the States" in a certain ratio named, and the question being divided, both parts were adopted, the States of North Carolina, South Carolina and Georgia voting against the first, and Virginia and South Carolina against the second. *Ibid.*, 338. William C. Houston subsequently again moved a reconsideration, and proposed that the Executive be elected by the National Legislature, and it prevailed by a vote of seven to four, Connec-

ticut, Pennsylvania, Maryland and Virginia being in the negative, but the Convention re-opened the discussion of the subject the same day, and again receded from its decision. *Ibid.*, 358. Various propositions followed, but none were adopted. *Ibid.*, 359 to 368. These and the difficulties which environed the subject are clearly stated in the following remarks of Mr. Mason :

In every stage of the question relative to the executive, the difficulty of the subject, and the diversity of the opinions concerning it, have appeared ; nor have any of the modes of constituting that department been satisfactory. First, it has been proposed that the election should be made by the people at large ; that is, that an act which ought to be performed by those who know most of eminent characters and qualifications should be performed by those who know least ; secondly, that the election should be made by the Legislatures of the States ; thirdly, by the executives of the States. Against these modes, also, strong objections have been urged. Fourthly, it has been proposed that the election should be made by electors chosen by the people for that purpose. This was at first agreed to ; but on further consideration has been rejected. Fifthly, since which, the mode of Mr. Williamson, requiring each freeholder to vote for several candidates, has been proposed. This seemed, like many other propositions, to carry a plausible face, but on closer inspection is liable to fatal objections. A popular election in any form, as Mr. Gerry has observed, would throw the appointment into the hands of the Cincinnati, a society for the members of which he had a great respect, but which he never wished to have a preponderating influence in the government. Sixthly, another expedient was proposed by Mr. Dickinson, which is liable to so palpable and material an inconvenience, that he had little doubt of its being by this time rejected by himself. It would exclude every man who happened not to be popular within his own State ; though the causes of his local unpopularity might be of such a nature as to recommend him to the States at large. Seventhly, among other expedients, a lottery has been introduced. But as the tickets do not appear to be in much demand, it will probably not be carried on, and nothing therefore need be said on that subject. After reviewing all these various modes, he was led to conclude, that an election by the National Legislature, as originally proposed, was the best ; if it was liable to objections, it was liable to fewer than any other. He conceived, at the same time, that a second election ought to be absolutely prohibited. Having for his primary object—for the polar star of his political conduct—the preservation of the rights of the people, he held it as an essential point, as the very palladium of civil liberty, that the great officers of state, and particularly the executive, should at fixed periods return to that mass from which they were at first taken, in order that they may feel and respect those rights and interests which are again to be personally valuable to them. He concluded with moving, that the constitution of the executive, as reported by the Committee of the Whole, be reinstated, viz. : “ that the executive be appointed for seven years, and be ineligible a second time.”

Mr. Mason's motion was agreed to by a vote of seven to three, and on the question to agree to the whole resolution as amended, relating to the Executive, namely : “ That a National Executive be instituted, to consist of a single person, to be chosen by the National Legislature for the term of seven years, to be ineligible a second time, with power to carry into execution the national laws, to appoint to offices in cases not otherwise pro-

vided for, to be removable on impeachment and conviction of malpractice or neglect of duty, to receive a fixed compensation for the devotion of his time to the public service, to be paid out of the National Treasury ;" the same passed by the following vote : New Hampshire, Connecticut, New Jersey, North Carolina, South Carolina, Georgia—aye, six ; Pennsylvania, Delaware, Maryland—no, three ; Massachusetts, not on the floor ; Virginia divided, (Mr. Blair and Col. Mason, aye ; Gen. Washington and Mr. Madison, no ; Mr. Randolph happened to be out of the House.) *Ibid.*, 369.

The Committee, consisting of Messrs. Rutledge, Randolph, Gorham, Ellsworth and Wilson, appointed to report a Constitution, conformable to the resolutions passed by the Convention, reported the article relating to the Executive, as instructed, but when it came up for adoption by the Convention it was again opposed. Daniel Carroll moved to strike out *legislature* and insert *people*, but only two States, Maryland and Pennsylvania, voted for it. Others followed, however, with like motions to amend, and there being much dissatisfaction on the subject, it was referred to another Committee, which reported the following :—

" After the word 'excellency,' in Sect. 1, Art. 10, to be inserted : ' He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following manner, viz. : Each State shall appoint, in such manner as its Legislature may direct, a number of electors equal to the whole number of senators and members of the House of Representatives to which the State may be entitled in the Legislature. The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves ; and they shall make a list of all the persons voted for, and of the number of votes for each, which they shall sign, and certify, and transmit, sealed, to the seat of the General Government, directed to the President of the Senate. The President of the Senate shall, in that House, open all the certificates, and the votes shall be then and there counted. The person having the greatest number of votes shall be the President, if such number be a majority of that of the electors ; and if there be more than one who have such a majority, and have an equal number of votes, then the Senate shall immediately choose, by ballot, one of them for President ; but if no person have a majority, then, from the five highest on the list, the Senate shall choose, by ballot, the President ; and in every case, after the choice of the President, the person having the greatest number of votes shall be Vice President ; but if there should remain two or more who have equal votes, the Senate shall choose from them the Vice President. The Legislature may determine the time of choosing and assembling the electors, and the manner of certifying and transmitting their votes.' " 5 *Elliot's Deb.*, 507.

This presented a new mode, more acceptable in the main than any other that had yet been proposed, and was modified and amended to the form in which it was finally adopted, and made part of the Constitution, as agreed upon by the Convention.

## CHAPTER XXVIII.

## THE SENATE.

THE small number, and long duration of the Senate, were intended to render them a safeguard, says Chancellor Kent, against the influence of those paroxysms of heat and passion, which prevail occasionally in the most enlightened communities, and enter into the deliberation of popular assemblies. In this point of view, a firm and independent Senate is justly regarded as an anchor of safety amidst the storms of political faction; and, for want of such a stable body, the republics of Athens and Florence were overturned, by the fury of commotions, which the Senates of Sparta, Carthage and Rome might have been able to withstand. The characteristic qualities of the Senate, in the intendment of the Constitution, are wisdom and stability. The legal presumption is, that the Senate will entertain more enlarged views of public policy, will feel a higher and juster sense of national character, and a greater regard for stability in the administration of the government. These qualities, it is true, may, in most cases, be found in the other branch of the Legislature; but the constitutional structure of the House is not equally calculated to produce them; for, as the House of Representatives comes more immediately from the people, and the members hold their seats for a much shorter time, they are presumed to partake, with a quicker sensibility, of the prevailing temper and irritable disposition of the times, and to be in much more danger of adopting measures with precipitation, and of changing them with levity. A mutable legislation is attended with a more formidable train of mischiefs to the community. It weakens the force, and increases the intricacy of the laws, hurts credit, lessens the value of property, and it is an infirmity very incident to republican establishments, and has been a constant source of anxiety and concern to their most enlightened admirers. A disposition to multiply and change laws, upon the spur of the occasion, and to be making constant and restless experiments with the statute code, seems to be the natural disease of popular assemblies. In order, therefore, to counteract such a dangerous propensity, and to maintain a due portion of confidence in the government, and to insure its safety and character at home and abroad, it is requisite that another body of men, coming likewise from the people, and equally responsible for their conduct, but resting on a more permanent basis, and constituted with stronger inducements to moderation in debate, and to tendency of purpose, should be placed as a check

upon the intemperance of some of the popular department. *Kent's Commentaries*, vol. i., p. 225.

The superior weight and delicacy of the trust confided to the Senate, says the same eminent jurist already quoted, is a reason why the Constitution requires not only that the senators shall be chosen for six years, but that each senator should be thirty years of age, and nine years a citizen of the United States, and, at the time of his election, an inhabitant of the State for which he is chosen. The same age was also requisite for a Roman senator, though, in their executive offices, no qualification of age was required. *Ne atas quidem distinguebatur quin prima juvenia consulatum ac dictaturus inirent*. It has also been deemed fit and proper, in a country which was colonized originally from several parts of Europe, and has been disposed to adopt the most liberal policy towards the rest of mankind, that a period of citizenship, sufficient to create an attachment to our government, and a knowledge of its principles, should render an immigrant eligible to office. The English policy is not quite so enlarged. No alien born can become a member of Parliament. This disability was imposed by the act of settlement of 12 Wm. III., c. 2; and no bill of naturalization can be received in either House of Parliament, without such disabling clause in it. *Kent's Commentaries*, vol. i., p. 238.

There appears to have been no discussion in the Convention which framed the Constitution, as to the age of a person to be qualified as a Senator. The original proposition was a blank, and that was filled by the insertion of the words *thirty years*, seven States voting in the affirmative, and four in the negative. 5 *Elliott's Debates*, 186. Four years citizenship had been at first proposed as a qualification, but Gouverneur Morris moved *fourteen* instead of *four* years, and in doing so urged "the danger of admitting strangers into our public councils," when a discussion ensued, from the report of which the following extracts are made :

Mr. Ellsworth was opposed to the motion, as discouraging meritorious aliens from immigrating to this country.

Mr. Pinckney. As the Senate is to have the power of making treaties and managing our foreign affairs, there is peculiar danger and impropriety in opening its door to those who have foreign attachments. He quoted the jealousy of the Athenians on this subject, who made it death for any stranger to intrude his voice into their legislative proceedings.

Col. Mason highly approved of the policy of the motion. Were it not that many, not natives of this country, had acquired great credit during the Revolution, he should be for restraining the eligibility into the Senate to natives.

Mr. Madison was not averse to some restrictions on this subject, but could never agree to the proposed amendment. He thought any restriction however in the Constitution, unnecessary and improper—unnecessary, because the National Legislature is to have the right of regulating naturalization; and can by virtue thereof fix different periods of residence, as conditions of enjoying different privileges of citizenship—improper, because it will give a tincture of illiberality to the Constitution; because it will put it out of the power

of the National Legislature, even by special acts of naturalization, to confer the full rank of citizens on meritorious strangers.

Mr. Butler was decidedly opposed to the admission of foreigners without a long residence in the country. They bring with them, not only attachments to other countries, but ideas of government so distinct from ours, that in every point of view they are dangerous. He acknowledged that, if he himself had been called into public life within a short time after his coming to America, his foreign habits, opinions, and attachments would have rendered him an improper agent in public affairs. He mentioned the great strictness observed in Great Britain on this subject.

Dr. Franklin was not against a reasonable time, but should be very sorry to see any thing like illiberality inserted in the Constitution. It did not follow from an omission to insert the restriction in the Constitution, that the persons in question would be actually chosen.

Mr. Randolph did not know but it might be problematical whether immigrants to this country were, on the whole, useful or not, but he could never agree to the motion for disabling them, for fourteen years, to participate in the public honors.

Mr. Gouverneur Morris. The lesson we are taught is that we should be governed as much by our reason, and as little by our feelings, as possible. What is the language of reason on this subject? That we should not be polite at the expense of prudence. There was a moderation in all things. It is said that some tribes of Indians carried their hospitality so far as to offer to strangers their wives and daughters. Was this a proper model for us? He would admit them to his house; he would invite them to his table, would provide for them comfortable lodgings, but would not carry the complaisance so far as to bed them with his wife. He would let them worship at the same altar, but did not choose to make priests of them. He ran over the privileges which immigrants would enjoy among us, though they should be deprived of that of being eligible to the great offices of government; observing that they exceeded the privileges allowed to foreigners in any part of the world, and that as every society, from a great nation down to a club, had the right of declaring the conditions on which new members should be admitted, there could be no room for complaint. As to those philosophical gentlemen, those citizens of the world, as they called themselves, he owned he did not wish to see any of them in our public councils. He would not trust them. The men who can shake off their attachments to their own country can never love any other. These attachments are the wholesome prejudices which uphold all governments. Admit a Frenchman into your Senate, and he will study to increase the commerce of France; an Englishman, and he will feel an equal bias in favor of that of England. It has been said that the Legislatures will not choose foreigners—at least, improper ones. There was no knowing what Legislatures would do. Some appointments made by them proved that every thing ought to be apprehended from the cabals practiced on such occasions. He mentioned the case of a foreigner who left this State in disgrace, and walked himself into an appointment from another to Congress. 5 *Elliott's Debates*, 398.

The motion of Mr. Morris to insert *fourteen* was negatived—yeas four, nays seven. So also were motions to insert *thirteen*, and then *ten*; and a motion to insert *nine* years was agreed to—yeas six, nays four, the States of Massachusetts, Connecticut, Maryland and Pennsylvania, voting in the negative, and North Carolina being divided. 5 *Elliott's Debates*, 398. An effort was afterwards made by James Wilson to reduce

the period of citizenship from nine to seven years, but it failed, only three States voting for and seven against it. *Ibid.*, 414.

The manner and by whom Senators were to be elected also gave rise to much discussion, and an agreement in relation to it was attended with much embarrassment. Edmund Randolph's plan was that Senators should be elected by the House of Representatives, out of a number of persons nominated by the State Legislatures. *Ibid.*, 127. This was however negatived, but three out of ten States voting for it, namely, Massachusetts, Virginia, and South Carolina. Pierce Butler thought that "taking so many powers out of the hands of the States as was proposed, tended to destroy all that balance and security of interests among the States which it was necessary to preserve." Edmund Randolph said, "his object was to provide a cure for the evils under which the United States labored; that, in tracing these evils to their origin, every man had found it in the turbulence and follies of democracy; that some check was therefore to be sought for against this tendency of our governments; and that a good Senate seemed most likely to answer the purpose." James Wilson thought, on the contrary, that "both branches of the National Legislature ought to be chosen by the people," and he "suggested the mode of choosing the Senate of New York—to wit, of uniting several election districts for one branch, in choosing members for the other branch as a good model." James Madison differed with Mr. Wilson. He "observed that such a mode would destroy the influence of the smaller States associated with the larger ones in the same district." Roger Sherman was in favor of the "election of one member by each of the State Legislatures." *Ibid.*, 138. John Dickinson submitted a proposition "that the members of the second branch ought to be chosen by the individual Legislatures," which, after a very full discussion, was adopted by a vote of all the States. The following is an abstract of the discussion pending the consideration of Mr. Dickinson's proposition :

Mr. Sherman seconded the motion, observing that the particular States would thus become interested in supporting the National Government, and a due harmony between the two governments would be maintained. He admitted that the two ought to have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

Mr. Dickinson had two reasons for his motion—first, because the sense of the States would be better collected through their government than immediately from the people at large; secondly, because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State Legislatures than in any other mode. The greatness of the number was no objection with him. He hoped there would be eighty, and twice eighty, of them. If their number should be small, the popular branch

could not be balanced by them. The Legislature of a numerous people ought to be a numerous body.

Mr. Williamson preferred a small number of Senators, but wished that each State should at least have one.

Mr. Wilson. If we are to establish a national government, that government ought to flow from the people at large. If one branch of it should be chosen by the Legislatures, and the other by the people, the two branches will rest on different foundations, and dissensions will naturally rise between them. He wished the Senate to be elected by the people, as well as the other branch.

Mr. Madison. If the motion (of Mr. Dickinson) should be agreed to, we must either depart from the doctrine of proportional representation, or admit into the Senate a very large number of members. The first is inadmissible, being evidently unjust. The second is inexpedient. The use of the Senate is to consist in its proceeding with more coolness, with more system, and with more wisdom, than the popular branch. Enlarge their number, and you communicate to them the vices which they are meant to correct. He differed from Mr. Dickinson, who thought that the additional number would give additional weight to the body. On the contrary, it appeared to him that their weight would be in an inverse ratio to their numbers. The example of the Roman tribunes was applicable. They lost their influence and power in proportion as their number was augmented. The reason seemed to be obvious. They were appointed to take care of the popular interests and pretensions at Rome; because the people, by reason of their numbers, could not act in concert, and were liable to fall into factions among themselves, and to become a prey to their aristocratic adversaries. The more the representatives of the people, therefore, were multiplied, the more they partook of the infirmities of their constituents, the more liable they became to be divided among themselves, either from their own indiscretions or the artifices of the opposite factions, and of course the less capable of fulfilling their trust. When the weight of a set of men depends merely on their personal characters, the greater the number, the greater the weight. When it depends on the degree of political authority lodged in them, the smaller the number, the greater the weight.

Mr. Gerry. Four modes of appointing the Senate have been mentioned. First, by the first branch of the National Legislature. This would create a dependence contrary to the end proposed. Secondly, by the national executive. This is a stride towards monarchy that few will think of. Thirdly, by the people. The people have two great interests, the landed interest, and the commercial, including the stock holders. To draw both branches from the people will leave no security to the latter interest; the people being chiefly composed of the landed interest, and erroneously supposing that the other interests are adverse to it. Fourthly, by the individual Legislatures. The elections being carried through this refinement, will be most likely to provide some check in favor of the commercial interest against the landed; without which, oppression will take place; and no free government can last long where that is the case. He was therefore in favor of this last.

Mr. Dickinson. The preservation of the States in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the States altogether, would degrade the councils of our country, would be impracticable, would be ruinous. He compared the proposed national system to the solar system, in which



the States were the planets, and ought to be left to move freely in their proper orbits. The gentleman from Pennsylvania (Mr. Wilson) wished, he said, to extinguish these planets. If the State governments were excluded from all agency in the national one, and all power drawn from the people at large, the consequence would be, that the national government would move in the same direction as the State governments now do, and would run into all the same mischiefs. The reform would only unite the thirteen small streams into one great current, pursuing the same course without any opposition what, ever. He adhered to the opinion that the Senate ought to be composed of a large number, and that their influence, from family weight and other causes, would be increased thereby. He did not admit that the tributes lost their weight in proportion as their number was augmented, and gave an historical sketch of this institution. If the reasoning (of Mr. Madison) was good, it would prove that the number of the Senate ought to be reduced below ten, the highest number of the tribunitial corps.

Mr. Wilson. The subject, it must be owned, is surrounded with doubts and difficulties. But we must surmount them. The British government cannot be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it. He did not see the danger of the States being devoured by the National Government. On the contrary, he wished to keep them from devouring the National Government. He was not, however, for extinguishing these planets, as was supposed by Mr. Dickinson; neither did he, on the other hand, believe that they would warm or enlighten the sun. Within their proper orbits they must still be suffered to act, for subordinate purposes, for which their existence is made essential by the great extent of our country. He could not comprehend in what manner the landed interest would be rendered less predominant in the Senate by an election through the medium of the Legislatures than by the people themselves. If the Legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views? He was for an election by the people, in large districts, which would be most likely to obtain men of intelligence and uprightness; subdividing the districts only for the accommodation of voters.

Mr. Madison could as little comprehend in what manner family weight, as desired by Mr. Dickinson, would be more certainly conveyed into the Senate through elections by the State Legislatures than in some other modes. The true question was, in what mode the best choice would be made. If an election by the people, or through any other channel than the State Legislatures, promised as uncorrupt and impartial a preference of merit, there could surely be no necessity for an appointment by those Legislatures. Nor was it apparent that a more useful check would be derived through that channel than from the people through some other. The great evils complained of were, that the State Legislatures ran into schemes of paper money, &c., whenever solicited by the people, and sometimes without even the sanction of the people. Their influence, then, instead of checking a like propensity in the National Legislature, may be expected to promote it. Nothing can be more contradictory than to say that the National Legislature, without a proper check, will follow the example of the State Legislatures, and, in the same breath, that the State Legislatures are the only proper check.

Mr. Sherman opposed elections by the people, in districts, as not likely to produce such fit men as elections by the State Legislatures.

Mr. Gerry insisted, that the commercial and moneyed interest would be more secure in the hands of the State Legislatures, than of the people at large. The former have more sense of character, and will be restrained by that from injustice. The people

are for paper money, when the Legislatures are against it. In Massachusetts, the county conventions had declared a wish for a *depreciating* paper that would sink itself. Besides, in some States there are two branches in the Legislature, one of which is somewhat aristocratic. There would, therefore, be so far a better chance of refinement in the choice. There seemed, he thought, to be three powerful objections against elections by districts. First, it is impracticable; the people cannot be brought to one place for the purpose; and, whether brought to the same place or not, numberless frays would be unavoidable. Secondly, small States, forming part of the same district with a large one, or a large part of a large one, would have no chance of gaining an appointment for its citizens of merit. Thirdly, a new source of discord would be opened between different parts of the same district.

Mr. Pinckney thought the second branch ought to be permanent and independent; and that the members of it would be rendered more so by receiving their appointments from the State Legislatures. This mode would avoid the rivalships and discontents incident to the election by districts. He was for dividing the States in three classes, according to their respective sizes, and for allowing to the first class three members; to the second, two; and to the third, one.

Col. Mason. Whatever power may be necessary for the National Government, a certain portion must necessarily be left with the States. It is impossible for one power to pervade the extreme parts of the United States, so as to carry equal justice to them. The State Legislatures, also, ought to have some means of defending themselves against encroachments of the National Government. In every other department we have studiously endeavored to provide for its self-defence. Shall we leave the States alone, unprovided with the means for this purpose? And what better means can we provide, than the giving them some share in, or rather to make them a constituent part of, the National Establishment? There is danger on both sides, no doubt; but we have only seen the evils arising on the side of the State governments. Those on the other side remain to be displayed. The example of Congress does not apply. Congress had no power to carry their acts into execution, as the National Government will have. 5 *Elliot's Debates*, 166.

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## CHAPTER XXIX.

### HOUSE OF REPRESENTATIVES.

THE House of Representatives is composed of members chosen every second year by the people of the several States, who are qualified electors of the most numerous branch of the Legislature of the State to which they belong. The Legislature prescribes the times, places, and manner of holding elections for representatives, but Congress may at any time make or alter such regulations. No person can be a representative until he has attained the age of twenty-five years, and has been seven years a citizen of the United States, and is, when elected, an inhabitant of the State in which he is chosen.

In the Convention which framed the Constitution, Col. Mason moved

to make *twenty-five* years of age a qualification for membership of the House of Representatives. He said :

He thought it absurd, that a man to-day should not be permitted by the law to make a bargain for himself, and to-morrow should be authorized to manage the affairs of a great nation. It was the more extraordinary, as every man carried with him, in his own experience, a scale for measuring the deficiency of young politicians ; since he would, if interrogated, be obliged to declare that his political opinions, at the age of twenty-one, were too crude and erroneous to merit an influence on public measures. It had been said, that Congress had proved a good school for our young men. It might be so, for any thing he knew ; but if it were, he chose that they should bear the expense of their own education.

Colonel Mason's motion prevailed—yeas seven, nays three, the States in the negative being Massachusetts, Pennsylvania and Georgia, and New York divided. *Ibid.*, 228. In regard to citizenship, Col. Mason "was for opening a wide door for immigrants, but did not choose to let foreigners and adventurers make laws for us and govern us. Citizenship for three years was not enough for ensuring that local knowledge which ought to be possessed by the representative. This was the principal ground of his objection to so short a term. It might also happen, that a rich foreign nation, for example, Great Britain, might send over her tools, who might bribe their way into the Legislature for insidious purposes. He moved that 'seven' years, instead of 'three,' be inserted. Mr. Gouverneur Morris seconded the motion ; and on the question, all States agreed to it, except Connecticut." *Ibid.*, 389. A reconsideration was subsequently had of this vote, when the following motions were made and discussion took place :

Mr. Wilson and Mr. Randolph moved to strike out "seven years" and insert "four years," as a requisite term of citizenship to qualify for the House of Representatives.

Mr. Wilson said it was very proper the electors should govern themselves by this consideration ; but unnecessary and improper that the Constitution should chain them down to it.

Mr. Gerry wished that in future the eligibility might be confined to natives. Foreign powers will intermeddle in our affairs and spare no expense to influence them. Persons having foreign attachments will be sent among us and insinuated into our councils, in order to be made instruments for their purposes. Every one knows the vast sums laid out in Europe for secret services. He was not singular in these ideas. A great many of the most influential men in Massachusetts reasoned in the same manner.

Mr. Williamson moved to insert nine years, instead of seven. He wished this country to acquire, as fast as possible, national habits. 'Wealthy immigrants do more harm by their luxurious examples, than good by the money they bring with them.

Col. Hamilton was in general against embarrassing the government with minute restrictions. There was, on one side, the possible danger that had been suggested. On the other side, the advantage of encouraging foreigners was obvious and admitted. Persons in Europe of moderate fortunes will be fond of coming here, where they will be on a level with the first citizens. He moved that the section be so altered as to

require merely "citizenship and habitation." The right of determining the rule of naturalization will then leave a discretion to the Legislature on this subject, which will answer every purpose.

Mr. Madison seconded the motion. He wished to maintain the character of liberality which had been professed in all the constitutions and publications of America. He wished to invite foreigners of merit and republican principles among us. America was indebted to immigration for her settlement and prosperity. That part of America which had encouraged them most had advanced most rapidly in population, agriculture, and the arts. There was a possible danger, he admitted, that men with foreign predilections might obtain appointments; but it was by no means probable, that "it would happen in any dangerous degree. For the same reason that they would be attached to their native country, our own people would prefer natives of this country to them. Experience proved this to be the case. Instances were rare of a foreigner being elected by the people within any short space after his coming among us. If bribery was to be practiced by foreign powers, it would not be attempted among the electors, but among the elected, and among natives having full confidence of the people; not among strangers, who would be regarded with a jealous eye.

Mr. Wilson cited Pennsylvania as a proof of the advantage of encouraging immigrants. It was perhaps the youngest settlement (except Georgia) on the Atlantic; yet it was at least among the foremost in population and prosperity. He remarked, that almost all the general officers of the Pennsylvania line of the late army were foreigners, and no complaint had ever been made against their fidelity or merit. Three of her deputies to the Convention, (Mr. R. Morris, Mr. Fitzsimmons, and himself,) were also not natives. He had no objection to Col. Hamilton's motion, and would withdraw the one made by himself.

Mr. Butler was strenuous against admitting foreigners into our public councils.

On the question on Col. Hamilton's motion,—

Connecticut, Pennsylvania, Maryland, Virginia—aye, 4; New Hampshire, Massachusetts, New Jersey, Delaware, North Carolina, South Carolina, Georgia—no, 7.

On the question on Mr. Williamson's motion, to insert "nine years" instead of "seven,"—

New Hampshire, South Carolina, Georgia—aye, 3; Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina—no, 8.

Mr. Wilson renewed the motion for four years instead of seven; and on the question,—

Connecticut, Maryland, Virginia—aye, 3; New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia—no, 8.

Mr. Gouverneur Morris moved to add to the end of the section (article 4, section 2,) a proviso, that the limitation of seven years should not affect the rights of any person now a citizen.

Mr. Mercer seconded the motion. It was necessary, he said, to prevent a disfranchisement of persons who had become citizens, under the faith and according to the laws and Constitution, from their actual level in all respects with natives.

Mr. Rutledge. It might as well be said that all qualifications are disfranchisements, and that to require the age of twenty-five years was a disfranchisement. The policy of the precaution was as great with regard to foreigners, now citizens, as to those who are to be naturalized in future.

Mr. Sherman. The United States have not invited foreigners, nor pledged their faith that they should enjoy equal privileges with native citizens.

Mr. Baldwin could not enter into the force of the arguments against extending the disqualification to foreigners now citizens. The discrimination of the place of birth was not more objectionable than that of age, which all had concurred the propriety of.

On the question on the proviso of Mr. Gouverneur Morris, in favor of foreigners, now citizens,—

Connecticut, New Jersey, Pennsylvania, Maryland, Virginia—aye, 5; New Hampshire, Massachusetts, Delaware, North Carolina, South Carolina, Georgia—no, 6. *Elliot's Debates*, vol. v., 411–14.

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## CHAPTER XXX.

### CONDITIONS OF ELIGIBILITY TO OFFICE.

THE conditions of eligibility to the Executive and Representative stations of the State governments, at the formation and adoption of the Federal Constitution, afford some evidence of what the sentiment of the country then was in general upon matters of conservative policy, and show that there existed as much disposition among our forefathers to guard against a wild and unrestrained spirit of democracy, as on the other hand to avoid yielding up too much of their sovereign power.

Thus we find that two of the States, Rhode Island and Connecticut, continued to act under their colonial charters for a long while after the adoption of the United States Constitution, and the establishment of the General Government.

New Hampshire adopted a new Constitution in 1783; and it required that the Governor, to be eligible, should be an inhabitant of seven years' standing, possessed of an estate of £500; that senators should be thirty years of age, inhabitants of seven years' standing, and have freeholds to the value of £200; and that representatives in the House of Representatives should be residents of two years' standing, and have property equal to £100, half freehold.

In Massachusetts, the Constitution of 1780 provided that the Governor should have a residence of seven years, and a freehold of £1000; that a senator's residence must be five years, with a freehold of £300, or personal estate of £600; and that a representative in the Assembly should be a resident of one year, and have a freehold of £100, or personal estate taxable of £200.

The New York Constitution of 1777 required the Governor to have a three years' residence and be "a wise and discreet freeholder;" and the senators were also to be "freeholders chosen out of the body of the freeholders."

By the New Jersey Constitution of 1776, the Senate, called "The Legislative Council," was to consist of persons resident in the State at least one year, "and worth at least £1000 proclamation money," and the Assembly was to consist of members with the same length of residence, who were to be "worth £500 proclamation money."

In Pennsylvania, by the Constitution of 1776, members of the Assembly had to be residents for two years in the county they represented, but no property qualification was required beyond that of having paid taxes.

The Constitution of Delaware, adopted in 1776, provided that both branches of the Assembly should consist of freeholders.

The one adopted in Maryland, the same year, required the Governor to be twenty-five years of age, a resident of five years' standing, and to have within the State property above the value of £5000, of which at least £1000 to be real estate. Senators were to be twenty-five years of age, three years residents, and possessed of real and personal property worth £1000; while delegates to the other branch were to be twenty-one years of age, one year residents, and possessed of property worth £500 each.

That adopted in Virginia, the same year, required senators to be twenty-five years old, and to be freeholders of the district, and the members of the other branch to be freeholders of their respective counties.

That of North Carolina, also adopted the same year, admitted none under thirty years of age to be Governor, and required a residence of five years and a freehold of £1000 value; no one to be senator without one year's residence and £300 freehold; nor any to be of the other house without a year's residence and £100 freehold.

The Constitution of South Carolina, adopted in 1778, required the Governor to be a resident of ten years' standing, and have a freehold of £10,000 clear of debt. His council were to be of like estate and five years' residence; senators to have actual residence and freeholds of £2000, or, if non-residents, to have freeholds of £7000; and members of Assembly to be three years' residents.

By the Constitution of Georgia, adopted in 1777, the Governor was to be a resident for three years, and the members of both houses of the Legislature for at least one year, and owners of 250 acres of land, or property of some kind worth £250.

In speaking of the evidences thus afforded us of the views of the early patriots, as to the kind of men who were most likely fit for the public service, and the restrictions they deemed not only proper, but not inconsistent with the true principles of republican government, Mr. Warner very properly and justly remarks, in the July number of the *American Review* of 1849:—

"They did not think it safe to repose entirely on the unassisted discretion of the people in filling such employments. The people would of course mean well, but they

might act without a *per* knowledge of the persons they were voting for, or might be misled. It was therefore deemed necessary to draw a line enclosing all the ground of *prudent suffrage*, as regarded the men to be voted for, and shutting out persons of immature age and inexperience, or who had not resided long enough in their respective neighborhoods to be generally known, or were destitute of the evidence that property gives, as well as of personal virtue and intelligence, as of interest felt in the country's welfare and prosperity. Governors and senators, it was considered, should be at least from twenty-five to thirty years old, and should have been for some years established in the districts where they were candidates, so that every elector might be acquainted with their merits or demerits. \* \* \* And in the whole extent of the Union there was but a single State (Pennsylvania) that did not insist upon the security of a *property qualification*, before they would admit an individual of any name or character into the upper provinces of the public service. For even Connecticut and Rhode Island are understood to have concurred in this rule, though under charter governments. Nor that every governor, or every member of an *executive council*, was required in terms to be a man of property. These officers were in some cases appointed by the legislative houses; and it was then deemed sufficient to confine the express provision, as to property qualifications, to these houses."

Nor can it be urged, in justification of the radical changes modern reformers would introduce now, that these landmarks of the early fathers have yet been widely departed from by the States. Though this is a Constitution-making age, and many innovations have been made in all the States upon the labors of our ancestors, all of them have still Constitutions which abound in restrictions that are deemed necessary to a good republican government. Thus we find that there are still conditions of eligibility imposed, to a greater or less extent, in all the States. For instance, the Constitution of Virginia, adopted in 1851, requires the Governor to be a *native* citizen of the United States, a citizen of Virginia for five years, and to have attained the age of thirty years.

The Constitution of Louisiana, adopted in 1846, provides that no person shall be eligible to the office of governor nor lieutenant-governor who shall not have attained the age of thirty-five years, been a citizen of the United States, and a resident within the State for a period of fifteen years next preceding his election; nor shall the Governor be eligible for the term next succeeding the one to which he shall have been elected. Senators are required to be twenty-seven years of age, to have been citizens of the United States for ten years, and four years residents of the State next preceding their election; and representatives in the other branch shall have been three years citizens of the United States and residents of the State.

In Florida, the Constitution, adopted in 1839, requires the Governor to be thirty years of age, who has been a citizen of the United States ten years, and a resident of the State for five years; and senators and

members are required to have resided at least two years preceding their election in the State.

So in Texas, by the Constitution of 1845, the Governor must be thirty years of age, and a resident for three years in the State immediately preceding his election; nor is he eligible for more than two of every three terms of office. Senators must be resident three years and members two years next preceding their election.

The Constitution of Iowa, adopted in 1846, provides that no person shall be eligible as governor who has not arrived at the age of thirty, and been a citizen of the United States and resident of the State two years next preceding his election. Senators must be twenty-five years of age, and have resided one year in the State, and the same residence is required of representatives.

Thus one State after another might be referred to, and it would appear that the precedents of 1776 are still followed, and that, in this respect, there is but little difference between the conditions now imposed and those by the statesmen of the Revolution, except so far as property qualifications are concerned. Originally, there was but one State, that of Pennsylvania, which had no property qualification attached to the office of governor, and now there are but few; if any, that have such a qualification, even among the old thirteen States.

Though a great diversity of opinion existed in the Convention which framed the Constitution, with regard to the choosing of the United States Executive, and the senators and members of Congress, the *legislative agents* were at the time and have always been selected in the States by a popular vote. Such was, however, not the case generally as to the *State Executive*. In most of the States, under the primary constitutions, that appointment devolved upon the Legislatures. New Jersey, Pennsylvania, Delaware, Maryland, and some other States, so elected. There were, indeed, but few officers then elected by a popular vote in any of the States; and in not a single one did the people elect or appoint the judges.

So, too, nearly all the other offices, civil and military, were either filled by appointments from the executives, or elections by the Legislatures.

As it regarded the Judiciary, the two branches of the New Hampshire Legislature elected them under the Constitution of 1776, and the Governor and Council appointed under that of 1788. In Massachusetts, the Governor, by and with the advice and consent of the Executive Council, made the appointments. In New York, the Governor appointed by and with the advice and consent of a Council of Senators. In New Jersey, the Legislature chose them; in Pennsylvania, the Governor and Council; in Delaware, the Governor and Assembly; in Maryland, the



Governor and Council; in Virginia, the Legislature on joint ballot; in North and South Carolina, and Georgia, the same.

Being thus chosen in all the States, as most of the other officers were, the Convention which formed the Federal Constitution was not likely to adopt a different policy for the General Government. It was, however, a subject full of difficulty and embarrassment, as the debates plainly show. In the sketch of a Constitution prepared by Colonel Hamilton, and read by him to the Convention, he proposed that the Executive should have "the sole appointment of the heads or chief officers of the departments of finance, war and foreign affairs," and to have the appointment of *all other* officers, "subject to the approbation or rejection of the Senate." 5 *Elliott's Deb.*, 205. The draft submitted by Charles Pinckney proposed to give to the Senate the appointment of "ambassadors and other ministers to foreign nations, and judges of the Supreme court," and that the President should "nominate and, with the consent of the Senate, appoint all other officers." *Ibid.* 130. Mr. Patterson's plan, which had been concerted by delegates from New York, Connecticut, New Jersey and Delaware, and was offered as a counter proposition to the plan the Convention had informally agreed to, proposed that the judges should be appointed by the Executive, and also all federal officers not otherwise provided for. *Ibid.* 192. Various other propositions were submitted, but the Convention at last agreed upon the provision now in the Constitution with great unanimity.

Mr. Randolph's plan was that the judges should be elected by Congress. Mr. Wilson led off in opposition to this mode of appointment. He said "experience showed the impropriety of such appointments by numerous bodies. Intrigue, partiality, and concealment, were the necessary consequences. A principal reason for unity in the Executive was, that officers might be appointed by a single responsible person." Mr. Rutledge was not "disposed to grant so great a power to any single person." Dr. Franklin "wished such other modes suggested as might occur to other gentlemen," and "related a Scotch mode, in which the nomination proceeded from the lawyers, who always selected the ablest of the profession, to get rid of him, and share his practice among themselves." Mr. Madison expressed his dislike "to the election of the judges by the Legislature, or any numerous body;" but he "was not satisfied with referring the appointment to the Executive." He hinted that it might be given to the Senate, and moved that the *appointment by the Legislature* be stricken out and a blank left, which was agreed to. 5 *Elliott's Deb.*, 155. When the subject was resumed, Mr. Pinckney and Mr. Sherman moved to reinsert the words previously stricken out. Mr. Madison "objected to an appointment by the whole Legislature." He said "many of them are incompetent judges of the requisite qualifica-

tions. They were too much influenced by their partialities. The candidate was present who had a talent for business in the legislative field—who had, perhaps, assisted ignorant members in business of their own," &c., "would, without any of the essential qualifications for an expositor of the laws, prevail over a competitor not having these recommendations, but possessed of every necessary qualification." He proposed, therefore, that the Senate should elect them, and his motion was agreed to *nem. con.* 5 *Elliott's Deb.*, 188.

Subsequent to this decision, when the subject again came under consideration, Mr. Gorham "suggested that the judges be appointed by the Executive, with the advice and consent of the second branch, in the mode prescribed by the Constitution of Massachusetts." Mr. Wilson thought it his duty to move, in the first instance, "that the judges be appointed by the Executive," which was seconded by Gouverneur Morris. Lather Martin "was strenuous for an appointment by the second branch," and Roger Sherman "concurred in the observations of Mr. Martin." Mr. Mason thought there were "insuperable objections" to giving "the appointment to the Executive." Mr. Gorham said: "As the Executive will be responsible, in point of character at least, for a judicious and faithful discharge of his trust, he will be careful to look through all the States for proper characters;" that "public bodies feel no personal responsibility, and give full play to intrigue and cabal;" and he referred to Rhode Island as a "full illustration of the insensibility to character produced by a participation of numbers in dishonorable measures, and of the length to which a public body may carry wickedness and cabal." Mr. Madison "suggested that the judges might be appointed by the Executive, with the concurrence of one-third at least of the second branch." Mr. Sherman "was clearly for an election by the Senate." Mr. Randolph preferred the Senate. Mr. Bedford "thought there were solid reasons against leaving the appointment to the Executive." On the question of giving the appointments to the Executive, Massachusetts and Pennsylvania voted in the affirmative, and six of the other States in the negative; and on the question of the President, by and with the advice and consent of the Senate, making the appointments, Massachusetts, Pennsylvania, Maryland and Virginia, voted in the affirmative, and Connecticut, Delaware, North and South Carolina in the negative, the members from Georgia being absent. *Ibid.*, 328. Finally, it was agreed, however, to give to the Executive the appointment of "ambassadors, other public ministers and consuls, judges of the Supreme court, and all other officers," to be confirmed by the Senate, whose appointments were not otherwise provided for.

How far the State governments have been improved by modern innovations may well be questioned. South Carolina is now the only State

in which the Executive is not chosen by a popular vote; and the change, in this respect, is generally regarded as an improvement. But the change made in many of the States in the manner of selecting judges is a mooted point, and it is by no means certain that the character of the Judiciary has been improved. In arguing the case of *Groves, et. al., v. Slaughter*, before the United States Supreme court, Henry Clay is reported to have used the following emphatic language, showing what were his views as to this modern change of State polity: "I hope never to live in a State where the judges are elected, and where the period for which they hold their offices is limited, so that elections are constantly recurring." *Peters, vol. xv., p. 486.*

In many of the States, this important trust of patronage still is deemed safest where the primary constitutions lodged it. In Maine, the judges are still appointed by the Governor, by and with the advice and consent of the Council; in Massachusetts, the same; so in New Hampshire; in Vermont, they are chosen by the Legislature; in Connecticut, the same; so in Virginia and some other States; in New York, Pennsylvania, Ohio, Wisconsin and other States, they are however now elected by the people.

But few of the civil or military officers are now appointed by the Executive, or elected by the Legislature, in any of the States. Nearly all are now chosen by a popular vote. Mr. Warner thinks "liberty has no concern in the matter, beyond the choice of the two legislative houses;" because "to control the head, is to control the body," and that it is "enough for the people, at all events, to have both the Legislature and the Chief Executive directly dependent on their votes." Though this may be all true, and though the primary mode may have, as he says, "saved the people trouble," and it may have "promoted their interests, without a particle of danger to liberty in any quarter," it is no less true that the people now generally prefer to have the exercise of this power in their own hands, and that they have thus far shown themselves abundantly able to discharge it. But having assumed it in the States, it by no means follows that they should exercise it under the General Government, as the Free German Associations now wish to do.

## CHAPTER XXXI.

## TERM AND TENURE OF OFFICE.

THE terms and tenures of office, as agreed upon by the framers of the Federal Constitution, and which are deemed so unreasonable by the reformers of the present day, were as follows : That the President "shall hold his office during the term of four years;" that senators shall be chosen for six years, and "the House of Representatives shall be composed of members chosen every second year;" and that "the judges, both of the Supreme and Inferior courts, shall hold their offices during good behavior."

This result was arrived at after a full discussion of the various plans proposed. Edmund Randolph, in the scheme submitted by him, fixed no definite term for the Executive, nor for senators. The latter, he proposed should "hold their offices for a term sufficient to insure their independency," and the judges "during good behavior." Charles Pinckney's plan fixed no definite tenure for the Executive, Senate or House of Representatives, but also proposed that the judges should hold their offices "during good behavior." The plan proposed by Mr. Patterson, as a substitute for Mr. Randolph's, also favored a life-tenure for the judges. Col. Hamilton, in his paper, which he read to the Convention as embodying his views as to the form that the Constitution should assume, proposed that the Executive, senators and judges, should hold their offices "during good behavior," and the members of the House of Representatives for three years; and in a speech made by him, reviewing the plans submitted by Messrs. Randolph and Patterson, he spoke as follows :

This view of the subject almost led him to despair that a republican government could be established over so great an extent. He was sensible, at the same time, that it would be unwise to propose one of any other form. In his private opinion, he had no scruple in declaring, supported as he was by the opinion of so many of the wise and good, that the British government was the best in the world; and he doubted much whether any thing short of it would do in America. He hoped gentlemen of different opinions would bear with him in this, and begged them to recollect the change of opinion on this subject which had taken place, and was still going on. It was once thought that the power of Congress was amply sufficient to secure the end of this institution. The error was now seen by every one. The members most tenacious of republicanism, he observed, were as loud as any in declaiming against the vices of democracy.

Let one branch of the Legislature hold their places for life, or at least during good behavior. Let the Executive, also, be for life. He appealed to the feelings of the mem-

here present, whether a term of seven years would induce the sacrifices of private affairs which an acceptance of public trust would require, so as to insure the services of the best citizens. On this plan, we should have in the Senate a permanent will, a weighty interest, which would answer essential purposes. But is this a republican government? it will be asked. Yes, if all the magistrates are appointed and vacancies are filled by the people, or a process of election originating with the people. He was sensible that an Executive, constituted as he proposed, would have in fact but little of the power and independence that might be necessary. On the other plan, of appointing him for seven years, he thought the Executive ought to have but little power. He would be ambitious, with the means of making creatures, and as the object of his ambition would be to *prolong* his power, it is probable that, in case of war he would avail himself of the emergency, to evade or refuse a degradation from his place. An Executive for life has not this motive for forgetting his fidelity, and will therefore be a safer depository of power. It will be objected, probably, that such an Executive would be an *elective monarch*, and will give birth to the tumults which characterize that form of government. He would reply, that *monarch* is an indefinite term. It marks not either the degree or duration of power. If this Executive magistrate would be a monarch for life, the other proposed by the report from the Committee of the Whole would be a monarch for seven years. The circumstance of being elective was also applicable to both. It had been observed, by judicious writers, that elective monarchies would be the best if they could be guarded against the *tumults* excited by the ambition and intrigues of competitors. He was not sure that tumults were an insuperable evil. He thought this character of elective monarchies had been taken rather from particular cases than from general principles. The election of Roman Emperors was made by the *army*. In *Poland*, the election is made by great rival *princes*, with independent power, and ample means of raising commotions. In the German empire, the appointment is made by the electors and princes, who have equal motives and means for exciting cabals and parties. Might not such a mode of election be devised, among ourselves, as will defend the community against these defects in any dangerous degree? Having made these observations, he would read to the committee a sketch of a plan which he should prefer to either of those under consideration. He was aware that it went beyond the ideas of most members. But will such a plan be adopted out of doors? In return he would ask, will the people adopt the other plan? At present, they will adopt neither. But he sees the Union dissolving, or already dissolved—he sees evils operating in the States which must soon cure the people of their fondness for democracies—he sees that a great progress has been already made, and is still going on in the public mind. He thinks, therefore, that the people will in time be unshackled from their prejudices, and whenever that happens, they will themselves not be satisfied at stopping where the plan of Mr. Randolph would place them, but be ready to go as far at least as he proposes. He did not mean to offer the paper he had sketched as a proposition to that committee. It was meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr. Randolph, in the proper stages of its future discussion. 5 *Elliott's Debates*, 203.

When that part of Mr. Randolph's resolution relating to the tenuro of the Executive came under consideration, Mr. Wilson moved "that the blank for the time of duration should be filled with three years," observing, at the same time, that he preferred this short period on the supposition that a re-eligibility would be provided for. Mr. Pinckney moved for

seven years. Mr. Sherman was for three years, and against the doctrine of rotation, as throwing out of office the men best qualified to execute its duties. Mr. Mason was for seven years at least, and for prohibiting a re-eligibility, as the best expedient, both for preventing the effect of a false complaisance on the side of the Legislature towards unfit characters, and a temptation on the side of the Executive to intrigue with the Legislature for a reappointment. Mr. Bedford was strongly opposed to so long a term as seven years. He begged the committee to consider what the situation of the country would be, in case the first magistrate should be saddled on it for such a period, and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. An impeachment, he said, would be no cure for this evil, as an impeachment would reach misfeasance only, not incapacity. He was for a triennial election, and for an ineligibility after a period of nine years. On the question for *seven years*—New York, New Jersey, Pennsylvania, Delaware, Virginia, aye, 5; Connecticut, North Carolina, South Carolina, Georgia, no, 4; Massachusetts, divided. 5 *Elliott's Deb.*, 142.

Subsequently the following discussion took place:—

Dr. McClurg moved to strike out "seven years," and insert "during good behavior." By striking out the words declaring him not re-eligible, he was put in a position that would keep him dependent forever on the Legislature; and he conceived the independence of the Executive to be equally essential with that of the Judiciary department.

Mr. Gouverneur Morris seconded the motion. He expressed great pleasure in hearing it. This was the way to get a good government. His fear that so valuable an ingredient would not be attained had led him to take the part he had done. He was indifferent how the Executive should be chosen, provided he held his place by this tenure.

Mr. Broome highly approved the motion. It obviated all his difficulties.

Mr. Sherman considered such a tenure as by no means safe or admissible. As the Executive magistrate is not re-eligible, he will be on good behavior as far as will be necessary. If he behaves well, he will be continued; if otherwise, displaced, on a succeeding election.

Mr. Madison. If it be essential to the preservation of liberty that the legislative, executive, and judiciary powers be separate, it is essential to a maintenance of the separation that they should be independent of each other. The Executive could not be independent of the Legislature, if dependent on the pleasure of that branch for a reappointment.

Whether the plan proposed by the motion was a proper one, was another question, as it depended on the practicability of instituting a tribunal for impeachments as certain and as adequate in the one case as in the other. On the other hand, respect for the mover entitled his proposition to a fair hearing and discussion, until a less objectionable expedient should be applied for guarding against a dangerous union of the legislative and executive departments.

Col. Mason. This motion was made some time ago, and negatived by a very large majority. He trusted that it would be again negatived. It would be impossible to

define the misbehavior in such a manner as to subject it to a proper trial; and perhaps still more impossible to compel so high an offender, holding his office by such a tenure, to submit to a trial. He considered an Executive during good behavior as a safer name only for an Executive for life; and that the next would be an easy step to hereditary monarchy. If the motion should finally succeed, he might himself live to see such a revolution. If he did not, it was probable his children or grandchildren would. He trusted there were few men in that House who wished for it. No State, he was sure, had so far revolted from republican principles, as to have the least bias in its favor.

Mr. Madison was not apprehensive of being thought to favor any step towards monarchy. The real object with him was to prevent its introduction. Experience had proved a tendency in our government to throw all power into legislative vortex. The Executives of the States are in general little more than ciphers; the Legislatures omnipotent. If no effectual check be devised for restraining the instability and encroachments of the latter, a revolution of some kind or other would be inevitable. The preservation of republican government, therefore, required some expedient for that purpose, but required evidently, at the same time, that, in devising it, the genuine principles of that form should be kept in view.

Mr. Gouverneur Morris was as little a friend to monarchy as any gentleman. He concurred in the opinion, that the way to keep out monarchical government was to establish such a republican government as would make the people happy, and prevent a desire of change.

Dr. McClurg was not so much afraid of the shadow of monarchy as to be unwilling to approach it; nor so wedded to republican government as not to be sensible of the tyrannies that had been and may be exercised under that form. It was an essential object with him to make the Executive independent of the Legislature; and the only mode left for effecting it after the vote destroying his eligibility a second time, was to appoint him during good behavior.

On the question for inserting "during good behavior," in place of "seven years," (with a re-eligibility,) it passed in the negative.

New Jersey, Pennsylvania, Delaware, Virginia, aye, 4; Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, Georgia, no, 6.

On the motion to strike out "seven years," it passed in the negative.

Massachusetts, Pennsylvania, Delaware, North Carolina, aye, 4; Connecticut, New Jersey, Maryland, Virginia, South Carolina, Georgia, no, 6. *Elliott's Deb.*, vol. v., 325.

On the question, "Shall the Executive continue for seven years?" it was negatived by the following vote:—

Connecticut, South Carolina, Georgia, aye, 3; New Jersey, Pennsylvania, Delaware, Maryland, Virginia, no, 5; Massachusetts, North Carolina, divided.

Mr. King was afraid we should shorten the term too much. Mr. Gouverneur Morris was for a short term in order to avoid impeachments, which would be otherwise necessary. Mr. Butler was against the frequency of elections. Georgia and South Carolina were too distant to send electors often. Mr. Ellsworth was for six years. If the elections be too frequent the Executive will not be firm enough. There must be duties which will make him unpopular for the moment. There will be *outs* as well as *ins*. His administration, therefore, will be attacked and misrepresented. Mr. Williamson was for six years. The expense will be considerable, and ought not to be unnecessarily repeated. If the elections are too frequent, the best men will not undertake the service, and those of an inferior character will be liable to be corrupted.

On the question for six years—Massachusetts, Connecticut, New Jersey, Pennsylva-

nia, Maryland, Virginia, North Carolina, South Carolina, Georgia, *aye, 9*; Delaware, no. 5 *Elliott's Deb.*, 339.

Afterwards, on motion of Col. Mason, it was agreed "That the Executive be appointed for seven years, and be ineligible a second time." *Ibid.*, 369.

The subject was subsequently referred to a Committee, which reported in favor of a term of four years, and that was finally adopted.

The tenure of Senators was at first fixed at seven years, which was opposed by Roger Sherman, who preferred five years, and by Mr. Pierce, who was in favor of three years. Messrs. Randolph and Madison continued the discussion as follows :

Mr. Randolph was for the term of seven years. The democratic licentiousness of the State Legislatures proved the necessity of a firm Senate. The object of this second branch is to control the democratic branch of the National Legislature. If it be not a firm body, the other branch, being more numerous, and coming immediately from the people, will overwhelm it. The Senate of Maryland, constituted on like principles, had been scarcely able to stem the popular torrent. No mischief can be apprehended, as the concurrence of the other branch, and in some measure of the Executive, will in all cases be necessary. A firmness and independence may be the more necessary, also, in this branch, as it ought to guard the Constitution against encroachments of the Executive, who will be apt to form combinations with the demagogues of the popular branch.

Mr. Madison considered seven years as a term by no means too long. What we wished was, to give to the government that stability which was everywhere called for, and which the enemies of the republican form alleged to be inconsistent with its nature. He was not afraid of giving too much stability by the term of seven years. His fear was, that the popular branch would still be too great an overmatch for it. It was to be much lamented that we had so little direct experience to guide us. The Constitution of Maryland was the only one that bore any analogy to this part of the plan. In no instance had the Senate of Maryland created just suspicions of danger from it. In some instances, perhaps, it may have erred by yielding to the House of Delegates. In every instance of their opposition to the measures of the House of Delegates, they had had with them the suffrages of the most enlightened and impartial people of the other States, as well as their own. In the States where the Senates were chosen in the same manner as the other branches of the Legislature, and held their seats for four years, the institution was found to be no check whatever against the instabilities of the other branches. He conceived it to be of great importance that a stable and firm government, organized in the republican form, should be held out to the people. If this be not done; and the people be left to judge of this species of government by the operations of the defective systems under which they now live, it is much to be feared the time is not distant, when, in universal disgust, they will renounce the blessing which they have purchased at so dear a rate, and be ready for any change that may be proposed to them. 5 *Elliott's Debates*, 186.

On the question for seven years as the term for senators, eight States gave their votes in the affirmative, Connecticut against it, and Massachusetts and New York were divided. 5 *Ibid.*, 187. When the subject afterwards again came under consideration, Mr. Gorham suggested "four years, one-fourth to be elected every year." Mr. Randolph "supported the idea of rotation as favorable to the wisdom and stability of the corps,



which might possibly be always sitting and aiding the Executive." Mr. Williamson "suggested six years," and Mr. Sherman seconded it. Mr. Read "proposed that they should hold their offices during good behavior," which was seconded by Robert Morris. Gen. Pinckney favored four years. Seven years were stricken out, seven States voting therefor, and three, Pennsylvania, Delaware and Virginia, against it, Maryland being divided. Successive motions for six and then five years were negatived by a tie vote, when Mr. Gorham "moved to fill the blank with six years, one-third of the members to go out every second year," which was seconded by Mr. Wilson. Gen. Pinckney opposed it, and Mr. Read moved nine years, though he "still preferred during good behavior, but being little supported in that idea, he was willing to take the longest term that could be obtained," which motion was seconded by Mr. Broome, when the following debate took place:—

Mr. Madison. In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were—first, to protect the people against their rulers; secondly, to protect the people against the transient impressions into which they themselves might be led. A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of government most likely to secure their happiness, would first be aware, that those charged with the public happiness might betray their trust. An obvious precaution against the danger would be, to divide the trust between different bodies of men, who might watch and check each other. In this they would be governed by the same prudence which has prevailed in organizing the subordinate departments of government, where all business liable to abuses is made to pass through separate hands, the one being a check upon the other. It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, and employed but a small portion of that in public affairs, might err from the same cause. This reflection would naturally suggest, that the government be so constituted as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be, that they themselves, as well as a numerous body of representatives, were liable to err, also, from fickleness and passion. A necessary fence against this danger would be, to select a portion of enlightened citizens, whose limited number and firmness, might seasonably interpose against impetuous counsels. It ought, finally, to occur to a people deliberating on a government for themselves, that, as different interests necessarily result from the liberty meant to be secured, the major interest might, under sudden impulses, be tempted to commit injustice on the minority. In all civilized countries the people fall into different classes, having a real or supposed difference of interests. There will be creditors and debtors; farmers, merchants and manufacturers. There will be, particularly, the distinction of rich and poor. It was true, as had been observed, (by Mr. Pinckney,) we had not among us those hereditary distinctions of rank which were a great source of the contests in the ancient governments, as well as the modern States of Europe; nor those extremes of wealth or poverty which characterize the latter. We cannot, however, be regarded, even at this time, as one homogeneous mass, in which every thing that affects a part will affect in the same manner the whole. In framing a system which we wish to last for ages, we should not lose

sight of the changes which ages will produce. An increase of population will of necessity increase the proportion of those who will labor under all the hardships of life, and secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feeling of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in this country; but symptoms of a leveling spirit, as we have understood, have sufficiently appeared, in a certain quarter, to give notice of the future danger. How is this danger to be guarded against, on the republican principles; how is the danger, in all cases of interested conditions, to oppress the minority, to be guarded against? Among other means, by the establishment of a body, in the government, sufficiently respectable for its wisdom and virtues, to aid, in such emergencies, the preponderance of justice, by throwing its weight into that scale. Such being the objects of the second branch in the proposed government, he thought a considerable duration ought to be given to it. He did not conceive that the term of nine years could threaten any real danger; but, in pursuing his particular ideas on the subject, he should require the long term allowed to the second branch should not commence till such a period of life as would render a perpetual disqualification to be re-elected, little inconvenient, either in a public or private view. He observed, that, as it was more than probable we were now digesting a plan which, in its operation, would decide forever the fate of republican government, we ought not only to provide every guard to liberty that its preservation could require, but be equally careful to supply the defects which our own experience had particularly pointed out.

Mr. Sherman. Government is instituted for those who live under it. It ought, therefore, to be so constituted as not to be dangerous to their liberties. The more permanency it has, the worse, if it be a bad government. Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the government, by preserving that good behavior, because it insures their re-election. In Connecticut elections have been frequent, yet great stability and uniformity, both as to persons and measures, have been experienced from its original establishment to the present time—a period of more than a hundred and thirty years. He wished to have provision made for steadiness and wisdom, in the system to be adopted; but he thought six, or four years, would be sufficient. He should be content with either.

Mr. Read wished it to be observed, by the small States, that it was their interest that we should become one people as much as possible: the State attachments should be extinguished as much as possible; that the Senate should be so constituted as to have the feelings of citizens of the whole.

Mr. Hamilton. He did not mean to enter particularly into the subject. He concurred with Mr. Madison in thinking we were now to decide forever the fate of republican government; and that if we did not give to that form due stability and wisdom, it would be disgraced and lost among ourselves, disgraced and lost to mankind forever. He acknowledged himself not to think favorably of republican government; but addressed his remarks to those who did think favorably of it in order to prevail on them to tone to their government as high as possible. He professed himself to be as zealous an advocate for liberty as any man whatever; and trusted he should be as willing a martyr to it, though he differed as to the form in which it was most eligible. He concurred, also, in the general observations of Mr. Madison on the subject, which might be supported by others if it were necessary. It was certainly true, that nothing like an equality of property existed; that an inequality would exist as long as liberty existed, and that it would unavoidably result from that very liberty itself. This inequality of property constituted the great and fundamental distinction in society. When the tribu-

initial power had levelled the boundary between *patricians* and *plebeians*, what followed? The distinction between rich and poor was substituted. He meant not, however, to enlarge on the subject. He rose principally to remark, that Mr. Sherman seemed not to recollect that one branch of the proposed government was so formed as to render it particularly the guardians of the poorer orders of citizens; nor to have adverted to the true causes of the stability which had been exemplified in Connecticut. Under the British system, as well as the federal, many of the great powers appertaining to government—particularly all those relating to foreign nations—were not in the hands of the government there. Their internal affairs, also, were extremely simple, owing to sundry causes, many of which were peculiar to that country. Of late the government had entirely given way to the people, and had in fact suspended many of its ordinary functions, in order to prevent those turbulent scenes which had appeared elsewhere. He asks Mr. Sherman, whether the State, at this time, dare impose and collect a tax on the people! To these causes, and not to the frequency of elections, the effect, as far as it existed, ought to be chiefly ascribed.

Mr. Gerry wished we could be united in our ideas concerning a permanent government. All aim at the same end, but there are great differences as to the means. One circumstance, he thought, should be carefully attended to. There were not one thousandth part of our fellow-citizens who were not against every approach towards monarchy,—will they ever agree to a plan which seems to make such an approach? The Convention ought to be extremely cautious in what they hold out to the people. Whatever plan may be proposed will be espoused with warmth by many, out of respect to the quarter it proceeds from, as well as from an approbation of the plan itself. And if the plan should be of such a nature as to rouse a violent opposition, it is easy to foresee that discord and confusion will ensue; and it is even possible that we may become a prey to foreign powers. He did not deny the position of Mr. Madison, that the majority will generally violate justice when they have an interest in so doing; but did not think there was any such temptation in this country. Our situation was different from that of Great Britain; and the great body of lands yet to be parcelled out and settled, would very much prolong the difference. Notwithstanding the symptoms of injustice which had marked many of our public councils, they had not proceeded so far as not to leave hopes that there would be a sufficient sense of justice and virtue for the purpose of government. He admitted the evils arising from a frequency of elections, and would agree to give the Senate a duration of four or five years. A longer term would defeat itself. It never would be adopted by the people.

Mr. Wilson did not mean to repeat what had fallen from others, but would add an observation or two which he believed had not yet been suggested. Every nation may be regarded in two relations—first, to its own citizens; secondly, to foreign nations. It is, therefore, not only liable to anarchy and tyranny within, but has wars to avoid, and treaties to obtain from abroad. The Senate will probably be the depository of the powers concerning the latter objects. It ought therefore to be made respectable in the eyes of foreign nations. The true reason why Great Britain has not yet listened to a commercial treaty with us, has been because she had no confidence in the stability or efficacy of our government. Nine years, with a rotation, will provide these desirable qualities, and give our government an advantage in this respect over monarchy itself. In a monarchy, much must always depend on the temper of the man. In such a body, the personal character will be lost in the political. He would add another observation. The popular objection against appointing any public body for a long term, was, that it might, by gradual encroachments, prolong itself first into a body for life, and finally

become an hereditary one. It would be a satisfactory answer to this objection, that, as one-third would go out triennially, there would be always three divisions holding places from unequal times, and consequently acting under the influence of different views and different impulses.

On the question for nine years, one-third to go out triennially,—

Pennsylvania, Delaware, Virginia—aye, 3; Massachusetts, Connecticut, New Jersey, New York, Maryland, North Carolina, South Carolina, Georgia—no, 8.

On the question for six years, one-third to go out biennially,—

Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina—aye, 7; New York, New Jersey, South Carolina, Georgia—no, 4. 5 *Elliott's Debates*, 242.

Modern reform has not made as great an innovation upon the judicial tenure, as it has upon the mode and manner of choosing judges. In many of the States the judges of the Supreme court still hold their offices "during good behavior." Such is the case in Maine, New Hampshire and Connecticut, but not beyond the age of seventy years; in Massachusetts, Virginia, Delaware, North and South Carolina, Kentucky, Florida, and some other States, the judicial tenure still is "during good behavior." In Rhode Island it is practically the same, the judges holding their offices until removed by a resolution of both houses of the Legislature. In Pennsylvania, the Supreme judges hold their offices for fifteen years, and those of the Common Pleas for ten years; in Missouri and Tennessee, the Supreme judges have a tenure of twelve years; in Louisiana and Arkansas, eight years; in Indiana and Michigan, seven years; in New Jersey, Mississippi, Alabama, Iowa and Texas, six years; in Georgia, three years; and in Vermont, one year. In the six New England States, the executive and legislative branches are elected annually. In New York, Ohio, Texas, Michigan, Tennessee, Mississippi, Alabama, Georgia, North and South Carolina, and several other States, the executive term of office is two years; in New Jersey, Pennsylvania, Indiana, and some other States, three years; and in Florida, Iowa, Louisiana, Kentucky, Missouri, and some others, four years. In some of the States, the senators are chosen to serve four years, in some three, and in some two, and in a number of the States the senators and representatives are chosen biennially. The landmarks of the primary Constitutions of the old thirteen States are thus still preserved; and our State governments, formed by the public men of the present day, are *republican* in their structure, and not *democracies*, without qualifications and restrictions, in which the people rule without regard to form, law or order.

By the first regular Constitution of New Hampshire, the Governor and Senate were to be chosen annually, but judges were to hold their offices "during good behavior." In Massachusetts just the same. In New York, the Governor's term was fixed at three years, that of senators at four, and the judicial tenure was by good behavior determinable at

the age of sixty. In New Jersey, the Governor and Senate were to be annually chosen, and the term of the judges was to be seven years. In Pennsylvania, the Governor's term was one year, senators were to hold for three years, judges for seven. In Delaware, the Governor's term was three years, that of senators three, and that of the judges during good behavior. In Maryland, the Governor held for one year only, senators for five, and judges (as also the attorney general) during good behavior. In Virginia, the Governor was chosen for three years, the Senate for one, and judges held for life or good behavior. In North Carolina, the terms of the Governor and senators were one year only, those of the judges during good behavior. In South Carolina, the Governor and both houses of the Legislature were appointed biennially, the judges during good behavior. By the Georgia Constitution, the Governor and Senate were to hold for one year, but the tenure of the judicial office was not specified in that instrument. In brief, three governors held for three years each, one for two and the rest for one; there was one senatorial term of five years, one of four, two of three, one of two, and six of but one; and of the eleven regularly formed States, eight put their judges upon a tenure of good behavior, two gave them terms of seven years, and as to the remaining one, the Constitution is inexplicit. So that we may fairly say the sentiment of the country was divided between one and three years, as regarded the proper term for a chief magistrate, between one and five for the senatorial office; while in reference to judges it was nearly unanimous in favor of life-terms, with a tenure of good behavior.

When the term for members of the House of Representatives came to be considered, Messrs. Sherman and Ellsworth moved to fill the blank with the words *every year*. Mr. Rutledge proposed *every two years*. Mr. Jenifer proposed *every three years*, "observing that the two great frequency of elections rendered the people indifferent to them, and made the best unwilling to engage in so precarious a service." The following discussion then followed between Messrs. Madison and Gerry :

Mr. Madison seconded the motion for three years. Instability is one of the great vices of our republics to be remedied. Three years will be necessary, in a government so extensive, for members to form any knowledge of the various interests of the States to which they do not belong, and of which they can know but little from the situation and affairs of their own. One year will be almost consumed in preparing for and travelling to and from the seat of national business.

Mr. Gerry. The people of New England will never give up the point of annual elections. They know of the transition made in England from triennial to septennial elections, and will consider such an innovation here as a prelude to a like usurpation. He considered annual elections as the only defence of the people against tyranny. He was as much against a triennial house as against an hereditary Executive.

Mr. Madison observed, that, if the opinions of the people were to be our guide, it

would be difficult to say what course we ought to take. No member of the Convention could say what the opinions of his constituents were at this time; much less could he say what they would think, if possessed of the information and light possessed by the members here; and still less, what would be their way of thinking six or twelve months hence. We ought to consider what was right, and what was necessary in itself for the attainment of a proper government. A plan adjusted to this idea will recommend itself. The respectability of this Convention will give weight to their recommendation of it. Experience will be constantly urging the adoption of it; and all the most enlightened and respectable citizens will be its advocates. Should we fall short of the necessary and proper point, this influential class of citizens will be turned against the plan, and little support, in opposition to them, can be gained to it from the unreflecting multitude.

Mr. Gerry repeated his opinion, that it was necessary to consider what the people would approve. This had been the policy of all legislators. If the reasoning (of Mr. Madison) was just, and we supposed a limited monarchy the best form in itself, we ought to recommend it, though the genius of the people was decidedly adverse to it, and, having no hereditary distinctions among us, we were destitute of the essential materials for such an innovation.

On the question for the triennial election of the first branch,—

New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia—aye, 7; Massachusetts, (Mr. King, aye: Mr. Gorham, wavering,) Connecticut, North Carolina, South Carolina—no, 4. 5 *Elliot's Debates*, 183.

The term thus agreed upon was however subsequently reduced to *two years*, at which time the discussion was resumed, and continued as follows:

Mr. Randolph moved to strike out "three years," and insert "two years." He was sensible that annual elections were a source of great mischief in the States, yet it was the want of such checks against the popular intemperance as were now proposed that rendered them so mischievous. He would have preferred annual to biennial, but for the extent of the United States, and the inconvenience which would result from them to the representatives of the extreme parts of the empire. The people were attached to the frequency of elections. All the Constitutions of the States, except South Carolina, had established annual elections.

Mr. Dickinson. The idea of annual elections was borrowed from the ancient usage of England, a country much less extensive than ours. He supposed biennial would be inconvenient. He preferred triennial, and in order to prevent the inconvenience of an entire change of the whole number at the same moment, suggested a rotation by an annual election of one-third.

Mr. Ellsworth was opposed to three years, supposing that even one year was preferable to two years. The people were fond of frequent elections, and might be safely indulged in one branch of the Legislature. He moved for "one year."

Mr. Strong seconded and supported the motion.

Mr. Wilson, being for making the first branch an effectual representation of the people at large, preferred an annual election of it. This frequency was most familiar and pleasing to the people. It would not be more inconvenient to them than triennial elections, as the people in all the States have annual meetings, with which the election of the national representatives might be made to coincide. He did not conceive that it

would be necessary for the National Legislature to sit constantly; perhaps not half, perhaps not one-fourth, of the year.

Mr. Madison was persuaded that annual elections would be extremely inconvenient, and apprehensive that biennial would be too much so; he did not mean inconvenient to the electors, but to the representatives. They would have to travel seven or eight hundred miles from the distant parts of the Union, and would probably not be allowed even a reimbursement of their expenses. Besides, none of those who wished to be re-elected would remain at the seat of government, confiding that their absence would not affect them. The members of Congress had done this with few instances of disappointment. But as the choice was here to be made by the people themselves, who would be much less complaisant to individuals, and much more susceptible of impressions from the presence of a rival candidate, it must be supposed that the members from the most distant States would travel backwards and forwards at least as often as the elections should be repeated. Much was to be said also, on the time requisite for new members, (who would always form a large proportion,) to acquire that knowledge of the affairs of the States in general, without which their trust could not be usefully discharged.

Mr. Sherman preferred annual elections, but would be content with biennial. He thought the representatives ought to return home and mix with the people. By remaining at the seat of government they would acquire the habits of the place, which might differ from those of their constituents.

Col. Mason observed, that the States being differently situated, such a rule ought to be formed as would put them as nearly as possible on a level. If elections were annual, the Middle States would have a great advantage over the extreme ones. He wished them to be biennial, and the rather as in that case they would coincide with the periodical elections of South Carolina, as well as of the other States.

Col. Hamilton urged the necessity of three years. There ought to be neither too much nor too little dependence on the popular sentiments. The checks in the other branches of the government would be but feeble, and would need every auxiliary principle that could be interwoven. The British House of Commons were elected septennially, yet the democratic spirit of the Constitution had not ceased. Frequency of elections tended to make the people listless to them, and to facilitate the success of little cabals. This evil was complained of in all the States. In Virginia, it had been lately found necessary to force the attendance and voting of the people by severe regulations.

On the question for striking out "three years,"—

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia—aye, 7; New York, Delaware, Maryland—no, 3; New Jersey, divided.

The motion for "two years" was then inserted, *nem. con.* 5 *Elliott's Debates*, 224.

## CHAPTER XXXII.

## QUALIFICATION OF ELECTORS.

THE qualification of electors was another subject of serious embarrassment to the framers of the Federal Constitution. In noticing this subject, Mr. Warner expresses himself as follows:—

It is a naked act, which nothing but a Constitution of government can put in any man's power, and of which the power cannot even come from thence but upon a *trust* that does not permit it to rest in the receiver as his own. He is, therefore, a *trusted agent* in the whole matter. He fills an office which his country honors him with, not for his benefit in particular, *but for hers in general*. So that *claims* to the franchise are quite out of the question. And the pretence, so often and so childishly uttered in the progress of our history, that such and such a man was *entitled* to be a voter, or that he *ought in justice* to be one, though not *legally* qualified, is *strangely futile*.

Well, then, the fathers had a right to do as in their judgment the well-being of the country required. And acting on this principle, they gave the franchise of the polls, not to everybody, nor to the half, or even a fourth part, of the popular multitude, but only to persons answering a particular description, which it was hoped might include the best informed and most virtuous and independent portion of society, while it would shut out persons of a less enlightened or less reliable character.

So thought and acted our revolutionary statesmen, whose republicanism no one can dispute. They were the champions of liberty, but knew that a democracy would not necessarily be a free government, and that political liberty can only be preserved by that government in which it is not abused. We accordingly find that when Mr. Randolph submitted his proposition, that the people should elect the members of the first branch of the National Legislature, a variety of opinions manifested themselves among the members who framed the Federal Constitution, as the following account of the debate will show:—

Mr. Sherman opposed the election by the people, insisting that it ought to be by the State Legislatures. The people, he said, immediately, should have as little to do as may be about the government. They want information, and are constantly liable to be misled.

Mr. Gerry. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots. In Massachusetts, it had been fully confirmed by experience; that they are daily misled into the most baneful measures and opinions, by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of government. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamor in Massa-



chusetts, for the reduction of salaries, and the attack made on that of the Governor, though secured by the spirit of the Constitution itself. He had, he said, been too republican heretofore: he was still, however, republican, but had been taught by experience the danger of the levelling spirit.

Mr. Mason argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the government. It was, so to speak, to be our House of Commons. It ought to know and sympathize with every part of the community, and ought therefore to be taken, not only from different parts of the whole republic, but also from different districts of the larger members of it; which had in several instances, particularly in Virginia, different interests and views arising from difference of produce, of habits, &c., &c. He admitted that we had been too democratic, but was afraid we should incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity and policy; considering that, however affluent their circumstances, or elevated their situations might be, the course of a few years not only might, but certainly would, distribute their posterity throughout the lowest classes of society. Every selfish motive, therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest, than of the highest, order of citizens.

Mr. Wilson contended strenuously for drawing the most numerous branch of the Legislature immediately from the people. He was for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican government, this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State Legislatures by making them the electors of the National Legislature. All interference between the general and local governments should be obviated as much as possible. On examination, it would be found that the opposition of States to federal measures had produced much more from the officers of the States than from the people at large.

Mr. Madison considered the popular election of one branch of the National Legislature as essential to every plan of free government. He observed, that, in some of the States, one branch of the Legislature was composed of men already removed from the people by an intervening body of electors; that, if the first branch of the General Legislature should be elected by the State Legislatures, the second branch elected by the first, the Executive by the second together with the first, and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether, and the necessary sympathy between them and their rulers and officers too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be resorted to only in the appointment of the second branch of the Legislature, and in the Executive and Judiciary branches of the government. He thought, too, that the great fabric to be raised would be more stable and durable, if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the Legislatures.

Mr. Gerry did not like the election by the people. The maxims taken from the British Constitution were often fallacious when applied to our situation, which was extremely different. Experience, he said, had shown that the State Legislatures, drawn immediately from the people, did not always possess their confidence. He had no objection, however, to an election by the people, if it were so qualified that men of honor and character might not be unwilling to be joined in the appointments. He seemed to

think the people might nominate a certain number, out of which the State Legislatures should be bound to choose.

Mr. Butler thought an election by the people an impracticable mode.

On the question for an election of the first branch of the National Legislature by the people,—

Massachusetts, New York, Pennsylvania, Virginia, North Carolina, Georgia—aye, 6; New Jersey, South Carolina—no, 2; Connecticut, Delaware, divided. 5 *Elliot's Debates*, 184.

When the subject again came under consideration, Gen. Pinckney moved "that the first branch, instead of being elected by the people, should be elected in such manner as the Legislature should direct," which was seconded by Luther Martin. Col. Hamilton "considered the motion as intended manifestly to transfer the election from the people to the State Legislatures, which would essentially vitiate the plan. It would increase that State influence which could not be too watchfully guarded against." Mr. Mason was in favor of an election by the people. "Whatever inconvenience may attend the democratic principle, it must actuate one part of the government." Mr. Rutledge thought "an election by the Legislature would be more refined than an election immediately by the people." Mr. Wilson "considered the election of the first branch by the people not only as the corner-stone, but as the foundation of the fabric." Mr. King took the same view. Gen. Pinckney's motion was negatived, but four States, Connecticut, Delaware, New Jersey, and South Carolina, only voting for it. *Ibid.*, 223. The Committee on detail, which was appointed to prepare and report the Constitution in form, reported the first section of article fourth as follows: "The members of the House of Representatives shall be chosen, every second year, by the people of the several States comprehended within this Union. *The qualification of the electors shall be the same, from time to time, as those of the electors, in the several States, of the most numerous branch of their own Legislature.*" When this section came under consideration, the following proceedings took place:

Mr. Gouverneur Morris moved to strike out the last member of the section, beginning with the words, "qualification of electors," in order that some other provision might be substituted which would restrain the right of suffrage to freeholders.

Mr. Fitzsimmons seconded the motion.

Mr. Williamson was opposed to it.

Mr. Wilson. This part of the Report was well considered by the Committee, and he did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations, he thought, too, should be avoided. It would be very hard and disagreeable for the same person, at the same time, to vote for representatives in the State Legislature, and to be excluded from a vote for those in the National Legislature.

Mr. Gouverneur Morris. Such a hardship would be neither great nor novel. The people are accustomed to it, and not dissatisfied with it, in several of the States. In

some, the qualifications are different for the choice of the Governor and of the representatives; in others, for different Houses of the Legislature. Another objection against the clause, as it stands, is, that it makes the qualifications of the National Legislature depend on the will of the States, which he thought not proper.

Mr. Ellsworth thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State Constitutions. The people will not readily subscribe to the National Constitution, if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people.

Col. Mason. The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised? A power to alter the qualifications would be a dangerous power in the hands of the Legislature.

Mr. Butler. There is no right of which the people are more jealous than that of suffrage. Abridgments of it tend to the same revolution as in Holland, where they have at length thrown all power into the hands of the Senates, who fill up vacancies themselves, and form a rank aristocracy.

Mr. Dickinson had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the country. He considered them as the best guardians of liberty; and the restriction of the right to them as a necessary defence against the dangerous influence of those multitudes, without property and without principle, with which our country, like all others, will in time abound. As to the unpopularity of the innovation, it was, in his opinion, chimerical. The great mass of our citizens is composed at this time of freeholders, and will be pleased with it.

Mr. Ellsworth. How shall the freehold be defined? Ought not every man who pays a tax, to vote for the representative who is to levy and dispose of his money? Shall the wealthy merchants and manufacturers, who will bear a full share of the public burdens, be not allowed a voice in the imposition of them? Taxation and representation ought to go together.

Mr. Gouverneur Morris. He had long learned not to be the dupe of words. The sound of aristocracy, therefore, had no effect upon him. It was the thing, not the name, to which he was opposed; and one of his principal objections to the Constitution, as it is now before us, is, that it threatens the country with an aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich, who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this country will abound with mechanics and manufacturers, who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty? Will they be the impregnable barrier against aristocracy? He was as little duped by the association of the words, "taxation and representation." The man who does not give his vote freely, is not represented. It is the man who dictates the vote. Children do not vote. Why? Because they want prudence; because they have no will of their own. The ignorant and the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining "freeholders" to be insuperable; still less that the restriction could be unpopular. Nine-tenths of the people are at the present freeholders, and these will certainly be pleased with it. As to merchants, &c., if they have wealth, and value the right, they can acquire it. If not, they don't deserve it.

Col. Mason. We all feel too strongly the remains of ancient prejudices, and view

things too much through a British medium. A freehold is the qualification in England, and hence it is imagined to be the only proper one. The true idea, in his opinion, was, that every man having evidence of attachment to, and permanent common interest with, the society, ought to share in all its rights and privileges. Was this qualification restrained to freeholders? Does no other kind of property but land evidence a common interest in the proprietor? Does nothing besides property mark a permanent attachment? Ought the merchant, the moneyed man, the parent of a number of children whose fortunes are to be pursued in his own country, to be viewed as suspicious characters, and unworthy to be trusted with the common rights of their fellow-citizens?

Mr. Madison. The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the Legislature. A gradual abridgment of this right has been the mode in which aristocracies have been built on the ruins of popular forms. Whether the constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in the States where the right was now exercised by every description of people. In several of the States, a freehold was now the qualification. Viewing the subject on its merits alone, the freeholders of the country would be the safest depositories of republican liberty. In future times, a great majority of the people will not only be without landed, but any other sort of property. These will either combine, under the influence of their common situation,—in which case the rights of property and the public liberty will not be secure in their hands,—or, what is more probable, they will become the tools of opulence and ambition; in which case, there will be equal danger on another side. The example of England has been misconceived, (by Col. Mason.) A very small proportion of the representatives are there chosen by freeholders. The greatest part are chosen by the cities and boroughs, in many of which the qualification of suffrage is as low as it is in any one of the United States; and it was in the boroughs and cities, rather than the counties, that bribery most prevailed and the influence of the crown on elections was most dangerously exerted.

Dr. Franklin. It is of great consequence that we should not depress the virtue and public spirit of our own common people, of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it. He related the honorable refusal of the American seamen, who were carried in great numbers into the British prisons during the war, to redeem themselves from misery, or to seek their fortunes, by entering on board the ships of the enemies to their country; contrasting their patriotism with a contemporary instance, in which the British seamen, made prisoners by the Americans, readily entered on the ships of the latter, on being promised a share of the prizes that might be made out of their own country. This proceeded, he said, from the different manner in which the common people were treated in America and Great Britain. He did not think that the elected had any right, in any case, to narrow the privileges of electors. He quoted, as arbitrary, the British statute setting forth the danger of tumultuous meetings, and, under that pretext, narrowing the right of suffrage to persons having freeholds of a certain value; observing, that this statute was soon followed by another, under the succeeding parliament, subjecting the people who had no votes to peculiar labor and hardships. He was persuaded, also, that such a restriction as was proposed would give great uneasiness in the populous States. The sons of a substantial farmer not being themselves freeholders, would not be pleased at being disfranchised, and there are a great many persons of that description.

Mr. Mercer. The Constitution is objectionable in many points, but in none more than the present. He objected to the footing on which the qualification was put, but

particularly to the *mode of election* by the people. The people cannot know and judge of the character of candidates. The worst possible choice will be made. He quoted the case of the Senate in Virginia, as an example in point. The people in towns can unite their votes in favor of one favorite, and by that means always prevail over the people of the country, who, being dispersed, will scatter their votes among a variety of candidates. Mr. Rutledge thought the idea of restraining the right of suffrage to the freeholders a very unadvised one. It would create division among the people, and make enemies of all those who should be excluded.

On the question for striking out, as moved by Mr. Gouverneur Morris, from the word "qualification" to the end of the third article,—

Delaware—aye, 1; New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina—no, 7; Maryland, divided; Georgia, not present. 5 *Elliott's*, p. 385.

Mr. Mercer expressed his dislike of the whole plan, and his opinion that it never could succeed.

Mr. Gorham. He had never seen any inconvenience from allowing such as were not freeholders to vote, though it had long been tried. The elections in Philadelphia, New York, and Boston, where the merchants and mechanics vote, are at least as good as those made by freeholders only. The case in England was not accurately stated yesterday, (by Mr. Madison.) The cities and large towns are not the seat of crown influence and corruption. These prevail in the boroughs, and not on account of the right which those who were not freeholders had to vote, but of the smallness of the number who vote. The people have been long accustomed to this right in various parts of America, and will never allow it to be abridged. We must consult their rooted prejudices, if we expect their concurrence in our propositions.

Mr. Mercer did not object so much to an election by the people at large, including such as were not freeholders, as to their being left to make their choice without any guidance. He hinted that candidates ought to be nominated by the State Legislatures.

On the question for agreeing to Article 4, sect. 1, it passed, *nem. con.* 5 *Elliott's Debates*, p. 388.

The Convention having thus agreed upon the qualifications requisite for electors, the inquiry next arises what were those qualifications, at that time, in the respective States? An answer to which cannot be better given than in the following remarks of Mr. Warner, in the *American Review*:

There was some variety in the arrangements of the different States upon the subject. They were uniform in principle, however, with not more than one exception that I know of, in a point of consequence. The age of competency for voting was fixed at twenty-one years. Not that younger persons might not often be possessed of the requisite knowledge and judgment for that purpose, but because the majority of minors would not be likely to possess them, and a general rule was necessary. The condition of a short local residence was imposed, say from six to twelve months—not that persons from beyond the county line would in all cases be deficient in intelligence and trustworthiness for the duty, but because it was thought best in general that they should know and be known in the neighborhood. And what is more remarkable, there was a further condition added, to the effect that every elector must have a *stake in the county* (and for the most part it must be within the county where he used his privilege) *in the shape of property*. Generally speaking, this stake must be a freehold, though the

alternation of personal estate was deemed admissible in some places. With the single exception, I believe, of Pennsylvania, the whole Union was of one mind as to this characteristic circumstance, of holding a *property qualification* indispensable. Even Rhode Island and Connecticut, under their colonial charters, concurred in it. The amounts specified were different in different places, and each State had its own form of words to express the intent. I have not the New Hampshire Constitution of 1783 now before me. In Massachusetts, the rule was, "a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds;" in New York, it was "a freehold of the value of twenty pounds within the county," or a leasehold "of the yearly value of forty shillings," provided the voter should also "have been rated and actually paid taxes to the State." In New Jersey, "fifty pounds proclamation money" was to be the measure of competency. In Pennsylvania, to have paid taxes was enough, "provided always that the *sons of freeholders* should be allowed to vote, although they had not paid taxes." This was shaving close. By the Constitution of Maryland it was declared, "that every man having property in, a common interest with, and attachment to the community, ought to have a right of suffrage;" which right was thereupon given to actual residents, "having freeholds of five acres of land in their respective counties," or possessing "property in the State above the value of thirty pounds;" connected with a county residence "of one whole year next preceding the election," in which they might claim a suffrage. Virginia is understood to have agreed in practice with the other States, but the Constitution merely says the right of suffrage is "to remain as at present," and I have not found the law containing the particulars. In North Carolina, the vote for senators depended on "a freehold of fifty acres of land," while as to members of the other house no similar rule existed. In South Carolina, "every free white man, who acknowledged the being of a God, and believed in a future state of rewards and punishments," and who also "had a freehold of at least fifty acres of land, or a town lot, and had been legally seized and possessed of the same for six months previous to the election" when he claimed his franchise, "or had paid a tax the preceding year, or was taxable the precent year, at least six months previous to such election, in a sum equal to the tax on fifty acres of land," was held a duly qualified elector. And in Georgia, a man was such an elector, who was of lawful age and had resided six months in the State, provided he was "possessed, in his own right, of ten pounds value, and liable to pay tax in the State, or who was of any mechanical trade." Such are all the facts of the case in this aspect of it.

If not mistaken, a freehold qualification for electors for either branch of the South Carolina Legislature is still required, and it is probably the only State now in which that qualification is unconditionally required; but in all the States there are still certain conditions annexed to the right of voting for members of the State Legislature.

In Rhode Island, the suffrage is vested in all *native* citizens of the United States, who have resided in the State two years, and in the town in which they propose to vote six months, and who have been registered in the town clerk's office seven days before the election, and paid within one year a tax of one dollar; *all naturalized citizens* are required, in addition to the preceding qualifications, to possess real estate in the place they wish to vote, worth \$134 over all incumbrances, or which rents for \$7 per annum.

In New Hampshire, a tax qualification is required. So in Massachusetts, and a residence of one year in the State, and six months in the place the vote is offered.

In Connecticut, a voter is required to have gained a settlement in the State, to have resided six months preceding the election in the town, and to have a freehold of the yearly value of \$7 in the State; or shall have performed military duty for one year next preceding, or shall have paid a tax within the year, and shall sustain a good moral character.

In Vermont, one year's residence, and a "quiet and peaceable behavior" is required.

In New Jersey, one year's residence in the State, and five months in the place the vote is offered, is required.

In Pennsylvania, a residence of one year in the State, ten days before the election in the place the vote is offered, and the payment of a tax within two years, which shall have been assessed at least ten days previous to the election.

So in the southern States. In Virginia, by the Constitution of 1851, a residence of two years in the State, and one year in the county, city or town, is required; in South Carolina, a residence of two years in the State, and having been possessed of a freehold of fifty acres of land, or a town lot, at least six months before the election, or, not having such freehold or town lot, having been a resident in the election district six months, and paid a tax the preceding year of three shillings; in Georgia, a residence of six months and the payment of tax; in Louisiana, two years' residence, but no *naturalized* citizen can vote until two years after he becomes a citizen; in Kentucky, one year's residence, and the payment of tax; and so in all of them, with but little variation in the terms.

In the western States, one year's residence, and in some of them less, is the only qualification, except, perhaps, Ohio, which requires the payment of a tax.

It may, therefore, be justly assumed, as Chancellor Kent states, that the House of Representatives of the United States represents the whole body of the American people. 1 *Kent's Commentaries*, 229. Certainly it does—all who have an interest in the government, and whom the States deem proper persons to exercise the elective franchise.

## CHAPTER XXXIII.

## BASIS OF REPRESENTATION.

MANY other provisions might be referred to; but enough have already been noticed to show the complex structure of the United States Government, as compared with a simple and pure democracy. It may, however, not be out of place yet to refer to the compromise in regard to the representation of the States in the Senate, and the basis of representation in the House of Representatives, now so frequently found fault with, and complained of, but without which the Constitution could have never been formed, nor the Union established. It was *the vexed question*, which caused more anxious deliberation and discussion, and was attended with more embarrassment, than any other subject; and a brief view of the deliberations of the Convention in relation to it will explain the reasons for the compromise finally agreed upon, as well as the danger now to be apprehended from any attempt to disturb it.

The second resolution of the series proposed by Mr. Randolph was in these words: "That the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases." This Col. Hamilton moved to amend, by making it read: "That the rights of suffrage in the National Legislature ought to be proportioned to the number of free inhabitants." Mr. Madison then moved, "that the equality of suffrage, established by the Articles of Confederation, ought not to prevail in the National Legislature, and that an equal ratio of representation ought to be substituted," which was seconded by Gouverneur Morris, "and being generally relished, would have been agreed to," but for the interposition of Mr. Read of Delaware, as will appear from the following extract from the proceedings:

"Mr. Read moved that the whole clause relating to the point of representation be postponed; reminding the committee that the deputies from Delaware were restrained by their commission from assenting to any change of the rule of suffrage; and in case such a change should be fixed on, it might become their duty to retire from the Convention. Mr. Gouverneur Morris observed, that the valuable assistance of those members could not be lost without real concern; and that so early a proof of discord in the Convention, as the secession of a State, would add much to the regret; that the change proposed was, however, so fundamental an article in a National Government, that it could not be dispensed with. Mr. Madison observed, that, whatever reason might have existed for the equality of suffrage when the Union was a federal one among sovereign States, it must cease when a National Government should be put into the place. In



the former case, the acts of Congress depended so much for their efficacy on the co-operation of the States, that these had a weight, both within and without Congress, nearly in proportion to their extent and importance. In the latter case, as the acts of the General Government would take effect without the intervention of the State Legislatures, a vote from a small State would have the same efficacy and importance as a vote from a large one, and there was the same reason for different numbers of representatives from different States, as from counties of different extents within particular States. He suggested, as an expedient for at once taking the sense of the members on this point, and saving the Delaware deputies from embarrassment, that the question should be taken in committee, and the clause on report to the House, be postponed without a question there. This, however, did not appear to satisfy Mr. Read. By several it was observed, that no just construction of the act of Delaware could require or justify a secession of her deputies, even if the resolution were to be carried through the House as well as the committee. It was finally agreed, however, that the clause should be postponed, it being understood that, in the event, the proposed change of representation would certainly be agreed to, no objection or difficulty being started from any other quarter than from Delaware. 5 *Elliot's Deb.*, 135.

When the subject was resumed, Judge Brearly and Mr. Patterson, both from New Jersey, led off in speeches against the provision, and declared their uncompromising and irreconcilable hostility to it.

Judge Brearly said he "was sorry that any question on this point was brought into view. It had been much agitated in Congress at the time of forming the Confederation, and was then rightly settled, by allowing to each sovereign State an equal vote. Otherwise, the smaller States must have been destroyed instead of being saved. The substitution of a ratio, he admitted, carried fairness on the face of it: but, on a deeper examination, was unfair and unjust. Judging of the disparity of the States by the quota of Congress, Virginia would have sixteen votes, and Georgia but one. A like proportion to the others will make the whole number ninety. There will be three large States, and ten small ones. The large States, by which he meant Massachusetts, Pennsylvania, and Virginia, will carry every thing before them." "When the proposition for destroying the equality of votes came forward, he was astonished, he was alarmed. Is it fair, then, it will be asked, that Georgia should have an equal vote with Virginia? He would not say it was—what remedy, then? One only; that a map of the United States be spread out, that all the existing boundaries be erased, and that a new partition of the whole be made into thirteen equal parts."

Mr. Patterson followed him in a similar strain, and concluded thus:

"New Jersey will never confederate on the plan before the committee. She would be swallowed up. He had rather submit to a monarch, to a despot, than to such a fate. He would not only oppose the plan here, but, on his return home, do every thing in his power to defeat it there."

The following discussion then ensued:—

Mr. Wilson hoped, if the Confederacy should be dissolved, that a *majority*—nay, a *minority* of the States would unite for their safety. He entered elaborately into the defence of a proportional representation, stating, for his first position, that, as all authority was derived from the people, equal numbers of people ought to have an equal

number of representatives, and different numbers of people, different numbers of representatives. This principle had been improperly violated in the Confederation, owing to the urgent circumstances of the times.

Representatives of different districts ought clearly to hold the same proportion to each other, as their respective constituents hold to each other. If the small States will not confederate on this plan, Pennsylvania, and he presumed some other States, would not confederate on any other. We have been told that each State being sovereign, all are equal. So each man is naturally a sovereign over himself; and all men are therefore naturally equal. Can he retain this equality when he becomes a member of civil government? He cannot. As little can a sovereign State, when it becomes a member of the Federal Government. If New Jersey will not part with her sovereignty, it is vain to talk of government. A new partition of the States is desirable, but evidently and totally impracticable.

Mr. Sherman proposed, that the proportion of suffrage in the first branch should be according to the respective numbers of free inhabitants; and that in the second branch, or Senate, each State should have one vote and no more. He said, as the States would remain possessed of certain individual rights, each State ought to be able to protect itself; otherwise, a few large States will rule the rest. The House of Lords in England, he observed, had certain particular rights under the Constitution, and hence they have an equal vote in the House of Commons, that they may be able to defend their rights.

Mr. Rutledge proposed, that the proportion of suffrage in the first branch should be according to the quotas of contribution. The justice of this rule, he said, could not be contested.

Mr. Butler urged the same idea; adding, that money was power; and that the States ought to have weight in the government in proportion to their wealth.

Mr. King and Mr. Wilson, in order to bring the question to a point, moved, "that the right of suffrage in the first branch of the National Legislature ought not to be according to the rule established in the Articles of Confederation; but according to some equitable ratio of representation." The clause, so far as it related to suffrage in the first branch, was postponed, in order to consider this motion. [In the printed Journal, Mr. Rutledge is named as the seconder of the motion.]

Mr. Dickinson contended for the *actual* contributions of the States, as the rule of their representation and suffrage in the first branch; by thus connecting the interests of the States with their duty, the latter would be sure to be performed.

Mr. King remarked, that it was uncertain what mode might be used in levying a national revenue; but that it was probable imposts would be one source of it. If the *actual* contributions were to be the rule, the non-importing States, as Connecticut and New Jersey, would be in a sad condition indeed. It might so happen that they would have no representation. This situation of particular States had always been one powerful argument in favor of the five *per cent.* impost.

The question being about to be put, Dr. Franklin said he had thrown his ideas of the matter on a paper; which Mr. Wilson read to the Committee in the words following:—

Mr. Chairman: It has given me great pleasure to observe, that till this point—the proportion of representation—came before us, our debates were carried on with great

coolness and temper. If any thing of a contrary kind has on this occasion appeared, I hope it will not be repeated; for we are sent here to *consult*, not to *contend*.

"But, sir, in the present mode of voting by States, it is equally in the power of the lesser States to swallow up the greater; and this is mathematically demonstrable. Suppose, for example, that seven smaller States had each three members in the House, and the six larger to have, one with another, six members; and that, upon a question, two members of each small State should be in the affirmative, and one in the negative, they would make, affirmatives, fourteen; negatives, seven; and that all the larger States should be unanimously in the negative, they would make, negatives, thirty-six; in all, affirmatives, fourteen; negatives, forty-three.

"It is, then, apparent, that the fourteen carry the question against the forty-three, and the minority overpowers the majority, contrary to the common practice of assemblies in all countries and ages.

"The greater States, sir, are naturally as unwilling to have their property left in the disposition of the smaller, as the smaller are to have theirs in the disposition of the greater. An honorable gentleman has, to avoid this difficulty, hinted a proposition of equalizing the States. It appears to me an equitable one, and I should, for my own part, not be against such a measure, if it might be found practicable. Formerly, indeed, when almost every province had a different constitution,—some with greater, others with fewer privileges,—it was of importance to the borderers, when their boundaries were contested, whether by running the division lines, they were placed on one side or the other. At present, when such differences are done away, it is less material. The interests of a State are made up of the interests of its individual members. If they are not injured, the State is not injured. Small States are more easily well and happily governed than large ones. If, therefore, in such an equal division, it should be found necessary to diminish Pennsylvania, I should not be averse to the giving a part of it to New Jersey, and another to Delaware. But as there would probably be considerable difficulty in adjusting such a division, and, however equally made at first, it would be continually varying by the augmentation of inhabitants in some States, and their fixed proportion in others, and thence frequently occasion new divisions; I beg leave to propose, for the consideration of the committee, another mode, which appears to me to be as equitable, more easily carried into practice, and more permanent in its nature.

"Let the weakest State say what proportion of money or force it is able and willing to furnish for the general purposes of the Union;

"Let all the others oblige themselves to furnish each an equal proportion;

"The whole of these joint supplies to be absolutely in the disposition of Congress;

"The Congress, in this case, to be composed of an equal number of delegates from each State;

"After their decisions to be by the majority of individual voting;

"If these joint and equal supplies should, on particular occasions, not be sufficient, let Congress make requisitions on the richer and more powerful States for further aids, to be voluntarily afforded, leaving to each State the right of considering the necessity and utility of the aid desired, and of giving more or less, as it should be found proper.

"This mode is not new—it was formerly practiced with success by the British government with respect to Ireland and the colonies. We sometimes gave even more than they expected, or thought just to accept; and, in the last war, carried on while we were united, they gave us back in five years a million sterling. We should probably have continued such voluntary contributions, whenever the occasions appeared to require

them, for the common good of the empire. It was not till they chose to force us, and to deprive us of the merit and pleasure of voluntary contributions, that we refused and resisted. These contributions, however, were to be disposed of at the pleasure of a government in which we had no representative. I am, therefore, persuaded, that they will not be refused to one in which the representation shall be equal.

"My learned colleague (Mr. Wilson) has already mentioned, that the present method of voting by States was submitted to originally by Congress under a conviction of its impropriety, inequality, and injustice. This appears in the words of the resolution. It is of the sixth of September, 1774. The words are,—

"*Resolved*, That, in determining questions in this Congress, each colony or province shall have one vote; the Congress not being possessed of, or at present able to procure, materials for ascertaining the importance of each colony."

On the question for agreeing to Mr. King's and Mr. Wilson's motion, it passed in the affirmative.

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia—aye, 7; New York, New Jersey, Delaware—no, 3; Maryland, divided. 5 *Elkott's Debates* 179.

When the subject was subsequently resumed, Luther Martin spoke at great length, contending that the General Government ought to be formed for the States, and not for individuals. Messrs. Lansing and Dayton moved to strike out the word *not*, so that the article should read "that the right of suffrage in the first branch ought to be according to the rule established by the Confederation," when a very long and able discussion ensued, from which the following is extracted:

Mr. Williamson thought that, if any political truth could be grounded on mathematical demonstration, it was, that, if the States were equally sovereign now, and parted with equal proportions of sovereignty, they would remain equally sovereign. He could not comprehend how the smaller States would be injured in that case, and wished some gentlemen would vouchsafe a solution of it. He observed that the small States, if they had a plurality of votes, would have an interest in throwing the burdens off their own shoulders on those of the large ones. He begged that the expected addition of new States from the westward might be taken in view. They would be small States; they would be poor States; they would be unable to pay in proportion to their numbers, their distance from market rendering the produce of their labor less valuable; they would consequently be tempted to combine for the purpose of laying burdens on commerce and consumption, which would fall with greater weight on the old States.

Mr. Madison said, he was much disposed to concur in any expedient, not inconsistent with fundamental principles, that could remove the difficulty concerning the rule of representation. But he could neither be convinced that the rule contended for was just, nor that it was necessary for the safety of the small States against the large ones. That it was just, had been conceded by Mr. Brearly and Mr. Patterson themselves. The expedient proposed by them was a new partition of the territory of the United States. The fallacy of the reasoning drawn from the equality of sovereign States, in the formation of compacts, lay in confounding mere treaties, in which were specified certain duties to which the parties were to be bound, and certain rules by which their subjects were to be reciprocally governed in their intercourse, with a compact by which an authority was created paramount to the parties, and making laws for the government of them.

Why are counties of the same States represented in proportion of their numbers? Is it because the representatives are chosen by the people themselves? So will be the representatives in the National Legislature. Is it because the larger have more at stake than the smaller? The case will be the same with the larger and smaller States. Is it because the laws are to operate immediately on their persons and property. The same is the case, in some degree, as the Articles of Confederation stand; the same will be the case, in a far greater degree, under the plan proposed to be substituted. In the cases of captures, of piracies, and of offenders in a federal army, the property and persons of individuals depend on the laws of Congress. By the plan proposed, a complete power of taxation—the highest prerogative of supremacy—is proposed to be vested in the National Government. Many other powers are added, which assimilate it to the government of individual States. \* \* \* In a word, the two extremes before us are a perfect separation, and a perfect incorporation of the thirteen States. In the first case, they would be independent nations, subject to no law but the law of nations. In the last, they would be mere counties of one entire republic, subject to one common law. In the first case, the smaller States would have every thing to fear from the larger. In the last, they would have nothing to fear. The true policy of the small States, therefore, lies in promoting those principles, and that form of government which will most approximate the States to the condition of counties. Another consideration may be added. If the General Government be feeble, the larger States, distrusting its continuance, and foreseeing that their importance and security may depend on their own size and strength, will never submit to a partition. Give to the General Government sufficient energy and permanency, and you remove the objection. Gradual partitions of the large and junctions of the small States will be facilitated, and time may effect that equalization which is wished for by the small States now, but can never be accomplished at once.

Mr. Wilson. The leading argument of those who contend for equality of votes among the States, is, that the States, as such, being equal, and being represented, not as districts of individuals, but in their political and corporate capacities, are entitled to an equality of suffrage. According to this mode of reasoning, the representation of the boroughs in England, which has been allowed on all hands to be the rotten part of the Constitution, is perfectly right and proper. They are, like the States, represented in their corporate capacity; like the States, therefore, they are entitled to equal voices—Old Sarum to as many as London. And, instead of the injury supposed hitherto to be done to London, the true ground of complaint lies with Old Sarum: for London, instead of two, which is her proper share, sends four representatives to Parliament.

Mr. Sherman. The question is, not what rights naturally belong to man, but how they may be most equally and effectually guarded in society. And if some give up more than others, in order to obtain this end, there can be no room for complaint. To do otherwise, to require an equal concession from all, if it would create danger to the rights of some, would be sacrificing the end to the means. The rich man who enters into society along with the poor man gives up more than the poor man, yet, with an equal vote, he is equally safe. Were he to have more votes than the poor man, in proportion to his superior stake, the rights of the poor man would immediately cease to be secure. This consideration prevailed when the Articles of Confederation were formed.

Dr. Johnson. The controversy must be endless whilst gentlemen differ in the grounds of their arguments: those on one side considering the States as districts of people composing one political society, those on the other considering them as so many political societies. The fact is, that the States do exist as societies, and a government

is to be formed for them in their political capacity, as well as for the individuals composing them. Does it not seem to follow, that if the States, as such, are to exist, they must be armed with some power of self-defence? This is the idea of Col. Mason, who appears to have looked to the bottom of this matter. Besides the aristocratic and other interests, which ought to have the means of defending themselves, the States have their interests as such, and are equally entitled to like means. On the whole, he thought that as, in some respects, the States are to be considered in their political capacity, and, in others, as districts of individual citizens, the two ideas embraced on different sides, instead of being opposed to each other, ought to be combined—that in *one* branch the *people* ought to be represented, and in the *other* the *States*.

Mr. Gorham. The States, as now confederated, have no doubt a right to refuse to be consolidated, or to be formed into any new system. But he wished the small States, which seemed most ready to object, to consider which are to give up most, they or the larger ones. He conceived that a rupture of the Union would be an event unhappy for all; but surely the large States would be least unable to take care of themselves, and to make connections with one another. The weaker, therefore, were most interested in establishing some general system for maintaining order. If, among individuals composed partly of weak and partly strong, the former most need the protection of law and government, the case is exactly the same with weak and powerful States. What would be the situation of Delaware, (for these things, he found, must be spoken out, and it might as well be done at first as last,) what would be the situation of Delaware in case of the separation of the States? Would she not be at the mercy of Pennsylvania? Would not her true interest lie in being consolidated with her, and ought she not now wish for such a union with Pennsylvania, under one government, as will put it out of the power of Pennsylvania to oppress her? Nothing can be more ideal than the danger apprehended by the States from their being formed into one nation. \* \* \* On the whole, he considered a union of the States as necessary to their happiness, and a firm general government as necessary to their union. He should consider it his duty, if his colleagues viewed the matter in the same light he did, to stay here as long as any other State would remain with them, in order to agree on some plan that could, with propriety, be recommended to the people.

Mr. Ellsworth did not despair. He still trusted that some good plan of government would be devised and adopted.

Mr. Read. He should have no objection to the system if it were truly national, but it has too much of a federal mixture in it. The little States, he thought, had not much to fear. He suspected that the large States felt their want of energy, and wished for a general government to supply the defect. Massachusetts was evidently laboring under her weakness, and he believed Delaware would not be in much danger if in her neighborhood. Delaware had enjoyed tranquillity, and he flattered himself would continue to do so. He was not, however, so selfish as not to wish for a good general government. In order to obtain one, the whole States must be incorporated. If the States remain, the representatives of the large ones will stick together, and carry every thing before them. The Executive, also, will be chosen under the influence of this partiality, and will betray it in his administration. These jealousies are inseparable from the scheme of leaving the States in existence. They must be done away. The ungranted lands, also, which have been assumed by particular States, must be given up. He repeated his approbation of the plan of Mr. Hamilton, and wished it to be substituted for that on the table.

Mr. Madison agreed with Dr. Johnson, that the mixed nature of the government

ought to be kept in view, but thought too much stress was laid on the rank of the States as political societies. There was a gradation, he observed, from the smallest corporation, with the most limited powers, to the largest empire, with the most perfect sovereignty. He pointed out the limitations of the sovereignty of the States, as now confederated. Their laws, in relation to the paramount law of the Confederacy, were analogous to that of by-laws to the supreme law within a State. Under the proposed government, the powers of the States will be much further reduced. According to the views of every member, the General Government will have powers far beyond those exercised by the British Parliament when the States were part of the British Empire. It will, in particular, have the power, without the consent of the State Legislatures, to levy money directly from the people themselves, and, therefore, not to divest such *unequal* portions of the people as composed the several States of an *equal* voice, would subject the system to the reproaches and evils which have resulted from the vicious representation in Great Britain.

He entreated the gentlemen representing the small States to renounce a principle which was confessedly unjust, which could never be admitted, and which, if admitted, must infuse mortality into a Constitution which he wished to last forever. He prayed them to ponder well the consequences of suffering the Confederacy to go to pieces. It had been said that the want of energy in the large States would be a security to the small. It was forgotten that this want of energy proceeded from the supposed security of the States against all external danger. Let each State depend on itself for its security, and let apprehensions arise of danger from distant powers or from neighboring States, and the languishing condition of all the States, large as well as small, would soon be transformed into vigorous and high-toned governments. His great fear was, that their governments would then have too much energy; that this might not only be formidable in the large to the small States, but fatal to the internal liberty of all. The same causes which have rendered the old world the theatre of incessant wars, and have banished liberty from the face of it, would soon produce the same effects here. The weakness and jealousy of the small States would quickly introduce some regular military force, against sudden danger from their powerful neighbors. The example would be followed by others, and would soon become universal. In time of actual war, great discretionary powers are constantly given to the executive magistrate. Constant apprehension of war has the same tendency to render the head too large for the body. A standing military force, with an overgrown executive, will not long be safe companions of liberty. The means of defence against foreign danger have been always the instruments of tyranny at home. Among the Romans it was a standing maxim, to excite a war whenever a revolt was apprehended. Throughout all Europe, the armies kept up under the pretext of defending, have enslaved, the people. It is perhaps, questionable, whether the best concerted system of absolute power in Europe could maintain itself, in a situation where no alarms of external danger could tame the people to the domestic yoke. The insular situation of Great Britain was the principal cause of her being an exception to the general fate of Europe. It has rendered less defence necessary, and admitted a kind of defence which could not be used for the purpose of oppression. These consequences, he conceived, ought to be apprehended, whether the States should run into a total separation from each other, or should enter into partial confederacies. Either event would be truly deplorable, and those who might be accessory to either could never be forgiven by their country, nor by themselves.

Mr. Hamilton observed, that individuals forming political societies modify their rights differently, with regard to suffrage. Examples of it are found in all the States. In

all of them some individuals are deprived of the right altogether, not having the requisite qualification of property. In some of the States the right of suffrage is allowed in some cases and refused in others. To vote for a member in one branch, a certain quantum of property, to vote for a member in another branch of the Legislature, a higher quantum of property is required. In like manner, States may modify their right of suffrage differently, the large States exercising a larger, the smaller a smaller share of it. But as States are a collection of individual men, which ought we to respect most, the rights of the people composing them, or of the artificial beings resulted from the composition? Nothing could be more preposterous or absurd than to sacrifice the former to the latter. It has been said that, if the smaller States renounce their *equality*, they renounce, at the same time, their *liberty*. The truth is, it is a contest for power, not for liberty. Will the men composing the small States be less free than those composing the larger? The State of Delaware, having forty thousand souls, will lose *power*, if she has one-tenth only of the votes allowed to Pennsylvania, having four hundred thousand; but will the people of Delaware be less free, if each citizen has an equal vote with each citizen of Pennsylvania? He admitted that common residence within the same State would produce a certain degree of attachment, and that this principle might have a certain influence on public affairs. He thought, however, that this might, by some precautions, be in a great measure excluded, and that no material inconvenience could result from it, as there could not be any ground for combination among the States whose influence was most dreaded. The only considerable distinction of interests lay between the carrying and non-carrying States, which divides, instead of uniting, the larger States. No considerable inconvenience had been found from the division of the State of New York into different districts of different sizes.

Some of the consequences of a dissolution of the Union, and the establishment of partial confederacies, had been pointed out. He would add another of a most serious nature. Alliances will immediately be formed with different rival and hostile nations of Europe, who will foment disturbances among ourselves, and make us parties to all their own quarrels. Foreign nations having American dominion, are, and must be, jealous of us. Their representatives betray the utmost anxiety for our fate; and for the result of this meeting, which must have an essential influence on it. It had been said, that respectability in the eyes of foreign nations was not the object at which we aimed; that the proper object of republican government was domestic tranquillity and happiness. This was an ideal distinction. No government could give us tranquillity and happiness at home, which did not possess sufficient stability and strength to make us respectable abroad. This was the critical moment for forming such a government. We should run every risk in trusting to future amendments. As yet we retain the habits of Union. We are weak, and sensible of our weakness. Henceforward, the motives will become feebler, and the difficulties greater. It is a miracle that we are now here, exercising our tranquil and free deliberations on the subject. It would be madness to trust to future miracles. A thousand causes must obstruct a reproduction of them.

Mr. Pierce considered the equality of votes under the Confederation as the great source of the public difficulties. The members of Congress were advocates for local advantages. State distinctions must be sacrificed as far as the general good required, but without destroying the States. Though from a small State, he felt himself a citizen of the United States.

Mr. Gerry urged, that we never were independent States, were not such now, and never could be, even on the principle of the Confederation. The States, and the advocates for them, were intoxicated with the idea of their *sovereignty*. He was a member



of Congress at the time the Federal Articles were formed. The injustice of allowing each State an equal vote was long insisted on. He voted for it, but it was against his judgment, and under the pressure of public danger, and the obstinacy of the lesser States. The present Confederation he considered as dissolving. The fate of the Union will be decided by the Convention. If they do not agree on something, few delegates will probably be appointed to Congress. If they do, Congress will probably be kept up till the new system should be adopted. He lamented that, instead of coming here like a band of brothers, belonging to the same family, we seemed to have brought with us the spirit of political negotiators.

Mr. L. Martin remarked, that the language of the States being *sovereign and independent*, was once familiar and understood; though it seemed now so strange and obscure. He read those passages in the Articles of Confederation which describe them in that language.

On the question, as moved by Mr. Lansing, Shall the word "not" be struck out?—

Connecticut, New York, New Jersey, Delaware—aye, 4; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia—no, 6; Maryland, divided.

On the motion to agree to the clause as reported, "that the rule of suffrage in the first branch ought not to be according to that established by the Articles of the Confederation:?"—

Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia—aye, 6; Connecticut, New York, New Jersey, Delaware—no, 4; Maryland, divided.  
5 *Elliott's Deb.*, 257.

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## CHAPTER XXXIV.

### BASIS OF REPRESENTATION—CONTINUED.

MR. ELLSWORTH moved, "that the rule of suffrage in the second branch be the same as that established by the Articles of Confederation." He said:—

He was sorry, on the whole, he said, that the vote just passed had determined against this rule in the first branch. He hoped it would become a ground of compromise with regard to the second branch. We were partly national, partly federal. The proportional representation in the first branch was conformable to the national principle, and would secure the large States against the small. An equality of voices was conformable to the federal principle, and was necessary to secure the small States against the large. He trusted that on this middle ground a compromise would take place. He did not see that it could on any other, and if no compromise should take place, our meeting would not only be in vain, but worse than vain. \* \* \* He would mention another consideration of great weight. The existing Confederation was founded on the equality of the States in the article of suffrage,—was it meant to pay no regard to this antecedent plighted faith? Let a strong executive, a judiciary, and legislative power, be created, but let not too much be attempted, by which all may be lost. He was not in general a half-way man, yet he preferred doing half the good we could, rather than do nothing at all. The other half may be added when the necessity shall be more fully experienced.

Mr. Baldwin should vote against the motion of Mr. Ellsworth, though he did not like the resolution as it stood in the report of the Committee of the Whole. He thought the second branch ought to be the representative of property, and that, in forming it, therefore, some reference ought to be had to the relative wealth of their constituents, and to the principles on which the Senate of Massachusetts was constituted.

Mr. Wilson did not expect such a motion after the establishment of the contrary principle in the first branch, and considering the reasons which would oppose it, even if an equal vote had been allowed in the first branch. The gentleman from Connecticut (Mr. Ellsworth) had pronounced that, if the motion should not be acceded to, of all the States north of Pennsylvania, one only would agree to any general government. He entertained more favorable hopes of Connecticut and of the other Northern States. He hoped the alarms exceeded their cause, and that they would not abandon a country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place, it could never happen on better grounds. The votes of yesterday against the just principle of representation were as twenty-two to ninety of the people of America. Taking the opinions to be the same on this point, and he was sure, if there was any room for change, it could not be on the side of the majority,—the question will be, Shall less than one-fourth of the United States withdraw themselves from the Union, or shall more than three-fourths renounce the inherent, indisputable, and unalienable rights of men, in favor of the artificial system of States? If issue must be joined, it was on this point he would choose to join it.

Mr. Ellsworth. The capital objection of Mr. Wilson, "that the minority will rule the majority," is not true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that the few should have a check on the many? Is it not the case in the British Constitution, the wisdom of which so many gentlemen have united in applauding? Have not the House of Lords, who form so small a proportion of the nation, a negative on the laws, as a necessary defence of their peculiar rights against the encroachments of the Commons? No instance of a confederacy has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to another. We are raising the foundation of the building, when we need only repair the roof.

Mr. Madison did justice to the able and close reasoning of Mr. Ellsworth, but must observe that it did not always accord with itself. On another occasion, the large States were described by him as the aristocratic States ready to oppress the small. Now, the small are the House of Lords, requiring a negative to defend them against the more numerous Commons. Mr. Ellsworth had also erred in saying that no instance had existed in which confederated States had not retained to themselves a perfect equality of suffrage. Passing over the German system, in which the King of Prussia has nine voices, he reminded Mr. Ellsworth of the Lycian confederacy, in which the component members had votes proportional to their importance, and which Montesquieu recommends as the fittest model for that form of government.

But he contended that the States were divided into different interests, not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having, or not having, slaves. These two causes concurred in forming the great division of interests in the United

States. It did not lie between the large and small States. It lay between the Northern and Southern; and if any defensive power were necessary, it ought to be mutually given to these two interests. He was so strongly impressed with this important truth, that he had been casting about in his mind for some expedient that would answer the purpose. The one which had occurred was, that, instead of proportioning the votes of the States, in both branches, to their respective numbers of inhabitants, computing the slaves in the ratio of five to three, they should be represented in one branch according to the number of free inhabitants only; and in the other, according to the whole number, counting the slaves as free. By this arrangement the southern scale would have the advantage in one House, and the northern in the other. He had been restrained from proposing this expedient by two considerations; one was his unwillingness to urge any diversity of interests on an occasion where it is but too apt to arise of itself; the other was the inequality of powers that must be vested in the two branches, and which would destroy the equilibrium of interests.

Mr. Davy was much embarrassed. \* \* \* He thought that, in general, there were extremes on both sides. We were partly federal, partly national, in our union; and he did not see why the government might not, in some respects, operate on the States, in others on the people.

Mr. Wilson admitted the question concerning the number of senators to be embarrassing. If the smallest States be allowed one, and the others in proportion, the Senate will certainly be too numerous. He looked forward to the time when the smallest States will contain a hundred thousand souls at least. Let there be then one senator in each, for every hundred thousand souls, and let the States not having that number of inhabitants be allowed one. He was willing himself to submit to this temporary concession to the small States; and threw out the idea as a ground of compromise.

Dr. Franklin. The diversity of opinions turns on two points. If a proportional representation takes place, the small States contend that their liberties will be in danger. If an equality of votes is to be put in its place, the large States say their money will be in danger. When a broad table is to be made, and the edges of planks do not fit, the artist takes a little from both, and makes a good joint. In like manner, here, both sides must part with some of their demands, in order that they may join in some accommodating proposition. He had prepared one, which he would read, that it might lay on the table for consideration. The proposition was in the words following:

"That the Legislatures of the several States shall choose and send an equal number of delegates, namely, —, who are to compose the second branch of the General Legislature.

"That in all cases or questions wherein the sovereignty of individual States may be effected, or whereby their authority over their own citizens may be diminished, or the authority of the General Government within the several States augmented, each State shall have equal suffrage.

"That in the appointment of all civil officers of the General Government, in the election of whom the second branch may by the Constitution have part, each State shall have equal suffrage.

"That in fixing the salaries of such officers, and in all allowances for public services, and generally in all appropriations and dispositions of money to be drawn out of the general treasury, and in all laws for supplying that treasury, the delegates of the several States shall have suffrage in proportion to the sums which their respective States do actually contribute to the treasury"

Mr. King observed, that the simple question was, whether each State should have an

equal vote in the second branch; that it must be apparent to those gentlemen who liked neither the motion for this equality, nor the Report as it stood, that the Report was as susceptible of melioration as the motion; that a reform would be nugatory and nominal only, if we should make another Congress of the proposed Senate; that if the adherence to an equality of votes was fixed and unalterable, there could not be less obstinacy on the other side; and that we were in fact cut asunder already, and it was in vain to shut our eyes against it; that he was, however, filled with astonishment, that if we were convinced that every *man* in America was secured in all his rights, we should be ready to sacrifice this substantial good to the phantom of *State* sovereignty; that his feelings were more harrowed and his fears more agitated for his country than he could express; that he conceived this to be the last opportunity of providing for its liberty and happiness; that he could not, therefore, but repeat his amazement, that, when a just government, founded on a fair representation of the *people* of America was within our reach, we should renounce the blessing from an attachment to the ideal freedom and importance of *States*; that should this wonderful illusion continue to prevail, his mind was prepared for every event, rather than sit down under a government founded on a vicious principle of representation, and which must be as short-lived as it would be unjust. He might prevail on himself to accede to some such expedient as had been hinted by Mr. Wilson; but he never could listen to an equality of votes, as proposed in the motion.

Mr. Dayton. When assertion is given for proof, and terror substituted for argument, he presumed they would have no effect, however eloquently spoken. It should have been shown that the evils we have experienced have proceeded from the equality now objected to; and that the seeds of dissolution for the State governments are not sown in the General Government. He considered the system on the table as a novelty, an amphibious monster; and was persuaded that it never would be received by the people.

Mr. Madison would acquiesce in the concession hinted by Mr. Wilson, on condition that a due independence should be given to the Senate. The plan in its present shape makes the Senate absolutely dependent on the States. The Senate, therefore, is only another edition of Congress. He knew the faults of that body, and had used a bold language against it. Still he would preserve the State rights as carefully as the trial by jury.

Mr. Bedford contended, that there was no middle way between a perfect consolidation and a mere confederacy of the States.

Are not the large States evidently seeking to aggrandize themselves at the expense of the small? They think, no doubt, that they have right on their side, but interest had blinded their eyes.

We have been told, with a dictatorial air, that this is the last moment for a fair trial in favor of a good government. It will be the last, indeed, if the propositions reported from the committee go forth to the people. He was under no apprehensions. The large States dare not dissolve the Confederation. If they do, the small ones will find some foreign ally, of more honor and good faith, who will take them by the hand and do them justice. He did not mean, by this, to intimidate or alarm. It was a natural consequence, which ought to be avoided by enlarging the federal powers, not annihilating the federal system. This is what the people expect. All agree in the necessity of a more efficient government; and why not make such a one as they desire?

Mr. King was for preserving the States in a subordinate degree, and as far as they could be necessary for the purposes stated by Mr. Ellsworth.

He could not sit down without taking some notice of the language of the honorable gentleman from Delaware, (Mr. Bedford.) It was not he that uttered a dictatorial language. This intemperance had marked the honorable gentleman himself. It was not he who, with a vehemence unprecedented in that house, had declared himself ready to turn his hopes from our common country, and court the protection of some foreign hand. This, too, was the language of the honorable member himself. He was grieved that such a thought had entered his heart. He was more grieved that such an expression had dropped from his lips. The gentleman could only excuse it to himself on the score of passion. For himself, whatever might be his distress, he would never court relief from a foreign power. 5 *Elliott's Debates*, 260.

On the question for allowing each State one vote in the second branch, as moved by Mr. Ellsworth, it was lost, five States voting for it and five against it. Gen. Pinckney thereupon said "some compromise seemed to be necessary, the States being exactly divided on the question for an equality of votes in the second branch," and he "proposed that a committee, consisting of one member from each State, should be appointed to devise and report some compromise." Luther Martin had no objection to a committee, but said, "no modifications whatever could reconcile the smaller States to the least diminution of their equal sovereignty." Roger Sherman said, "we are now at a full stop, and no body, he supposed, meant that we should break up without doing something;" and he thought therefore a committee "most likely to hit on some expedient." Gouverneur Morris, Mr. Randolph, Mr. Gerry, and others, favored a committee, and Mr. Madison, Mr. Wilson, and others, opposed it. A committee was thereupon appointed, consisting of Messrs. Gerry, Ellsworth, Yates, Patterson, Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy, Mr. Rutledge, Mr. Baldwin, which made a Report. *Ibid.*, 274. This Report again led to a long discussion, which ended in referring the subject to another committee, whose Report, after another long discussion, was referred still to another committee. The Report of the last committee still being unsatisfactory, various amendments were agreed to, and then, on the question for agreeing to the whole Report, as amended, and including the equality of votes in the second branch, it passed in the affirmative, as follows:—

Connecticut, New Jersey, Delaware, Maryland, North Carolina (Mr. Spaight, no.)—aye, 5; Pennsylvania, Virginia, South Carolina, Georgia—no, 4; Massachusetts, divided, (Mr. Gerry, Mr. Strong—aye; Mr. King, Mr. Gorham—no.) The whole, thus passed, is in the words following, viz.:

"*Resolved*, That in the original formation of the Legislature of the United States, the first branch thereof shall consist of sixty-five members, of which number New Hampshire shall send three; Massachusetts, eight; Rhode Island, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; Georgia, three. But as the present situation of the States may probably alter in the number of their inhabitants, the Legislature of the United States shall be authorized, from time to time, to

apportion the number of representatives; and in case any of the States shall hereafter be divided, or enlarged by addition of territory, or any two or more States united, or any new States created within the limits of the United States, the Legislature of the United States shall possess authority to regulate the number of representatives, in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned: *Provided always*, that representation ought to be proportioned according to direct taxation; and in order to ascertain the alteration in the direct taxation, which may be required from time to time by the changes in the relative circumstances of the States,—

“*Resolved*, That a census be taken within six years from the first meeting of the Legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in the manner and according to the ratio recommended by Congress in their resolution of the 18th day of April, 1783; and that the Legislature of the United States shall proportion the direct taxation accordingly.

“*Resolved*, That all bills for raising or appropriating money, and for fixing the salaries of officers of the Government of the United States, shall originate in the first branch of the Legislature of the United States, and shall not be altered or amended in the second branch, and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch.

“*Resolved*, That in the second branch of the Legislature of the United States each State shall have an equal vote.” *Ibid.*, 316.

Instead of this decision settling the vexed question, it but increased the perplexity of the Convention; and after several ineffectual efforts to proceed, Mr. Randolph rose, and said:

“The vote of this morning (involving an equality of suffrage in the second branch) had embarrassed the business extremely. All the powers given in the Report from the Committee of the Whole, were founded on the supposition that a proportional representation was to prevail in both branches of the Legislature. When he came here this morning, his purpose was to have offered some propositions that might, if possible, have united a great majority of votes, and particularly might provide against the danger suspected on the part of the smaller States, by enumerating the cases in which it might lie, and allowing an equality of votes in such cases. But finding, from the preceding vote, that they persist in demanding an equal vote in all cases; that they have succeeded in obtaining it; and that New York, if present, would probably be on the same side; he could not but think we were unprepared to discuss the subject further. It will probably be in vain to come to any final decision, with a bare majority on either side. For these reasons he wished the Convention to adjourn, that the large States might consider the steps proper to be taken in the present solemn crisis of the business, and that the small States might also deliberate on the means of conciliation.”

Mr. Patterson “thought, with Mr. Randolph, that it was high time for the Convention to adjourn, that the rule of secrecy ought to be rescinded, and that our constituents should be consulted. No conciliation could be admissible on the part of the smaller States on any other ground than that of an equality of votes in the second branch. If Mr. Randolph would reduce to form his motion for an adjournment *sine die*, he would second it with all his heart.”

Mr. Broome “thought it was his duty to declare his opinion against an adjournment *sine die*, as had been urged by Mr. Patterson. Such a measure, he thought, would

be fatal. Something must be done by the Convention, though it should be by a bare majority."

Mr. Gerry "observed, that Massachusetts was opposed to an adjournment, because they saw no new ground of compromise. But as it seemed to be the opinion of so many States, that a trial should be made, the State would now concur in the adjournment."

Mr. Rutledge "could see no need of an adjournment, because he could see no chance of a compromise. The little States were fixed. They had repeatedly and solemnly declared themselves to be so. All that the large States, then, had to do, was to decide whether they would yield or not. For his part, he conceived that, although we could not do what we thought best in itself, we ought to do something. Had we not better keep the government up a little longer, hoping that another Convention will supply our omissions, than abandon everything to hazard? Our constituents will be very little satisfied with us if we take the latter course."

An adjournment until next morning was agreed to, and the published report of the proceedings contains the following note made by Mr. Madison :

On the morning following, before the hour of the Convention, a number of the members from the larger States, by common agreement, met for the purpose of consulting on the proper steps to be taken in consequence of the vote in favor of an equal representation in the second branch, and the apparent inflexibility of the smaller States on that point. Several members from the latter States also attended. The time was wasted in vague conversation on the subject, without any specific proposition or agreement. It appeared, indeed, that the opinions of the members who disliked the equality of votes, differed much as to the importance of that point, and as to the policy of risking a failure of any general act of the Convention by inflexibly opposing it. Several of them—supposing that no good government could or would be built on that foundation; and that, as a division of the Convention into two opinions was unavoidable, it would be better that the side comprising the principal States, and a majority of the people of *America*, should propose a scheme of government to the States, than that a scheme should be proposed on the other side—would have concurred in a firm opposition to the smaller States, and in a separate recommendation, if eventually necessary. Others seemed inclined to yield to the smaller States, and to concur in such an act, however imperfect and exceptionable, as might be agreed on by the Convention as a body, though decided by a bare majority of the States and by a minority of the people of the United States. It is probable that the result of this consultation satisfied the smaller States, that they had nothing to apprehend from a union of the larger in any plan whatever against the equality of votes in the second branch. *Ibid.*, 319.

When the subject was afterwards resumed, another discussion followed, of which the following is an abstract :

Mr. King wished to know what influence the vote just passed was meant to have on the succeeding part of the report, concerning the admission of slaves into the rule of representation. He could not reconcile his mind to the article, if it was to prevent objections to the latter part. The admission of slaves was a most grating circumstance to his mind, and he believed would be so to a great part of the people of America. He had not made a strenuous opposition to it heretofore, because he had hoped that this

concession would have produced a readiness, which had not been manifested to strengthen the General Government, and to mark a full confidence in it. The report under consideration had, by the tenor of it, put an end to, all these hopes.

Mr. Sherman regarded the slave trade as iniquitous; but the point of representation having been settled, after much difficulty and deliberation, he did not think himself bound to make opposition; especially as the present article, as amended, did not preclude any arrangement whatever on that point, in another place of the report.

Mr. Gouverneur Morris moved to insert "free" before the word "inhabitants." Much, he said, would depend on this point. He never would concur in upholding domestic slavery. It was a nefarious institution. It was the curse of heaven on the States where it prevailed. Compare the free regions of the middle States, where a rich and noble cultivation marks the prosperity and happiness of the people, with the misery and poverty which overspread the barren wastes of Virginia, Maryland, and other States having slaves. Travel through the whole continent, and you behold the prospect continually varying with the appearance and disappearance of slavery. The moment you leave the Eastern States, and enter New York, the effects of this institution become visible. Passing through the Jerseys, and entering Pennsylvania, every criterion of superior improvement witnesses the change. Proceed southwardly, and every step you take; through the great regions of slaves, presents a desert, increasing with the increasing proportion of those wretched beings. Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them citizens and let them vote. Are they property? Why, then, is no other property included? The houses in this city (Philadelphia) are worth more than all the wretched slaves who cover the rice swamps of South Carolina. The admission of slaves into the representation, when fairly explained, comes to this:—That the inhabitant of Georgia and South Carolina, who goes to the coast of Africa, and, in defiance of the sacred laws of humanity, tears away his fellow-creatures from their dearest connections, and dooms them to the most cruel bondage, shall have more votes, in a government instituted for the protection of the rights of mankind, than the citizen of Pennsylvania or New Jersey, who views, with a laudable horror, so nefarious a practice. He would add, that domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. The vassalage of the poor has ever been the favorite offspring of aristocracy. And what is the proposed compensation to the northern States, for a sacrifice of every principle of right, of every impulse of humanity? They are to bind themselves to march their militia for the defence of the southern States—for their defence against those very slaves of whom they complain. They must supply vessels and seamen in case of foreign attack. The Legislature will have indefinite power to tax them by excises, and duties on imports, both of which will fall heavier on them than on the southern inhabitants; for the bohea tea used by the northern freemen will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his physical subsistence and the rag that covers his nakedness. On the other side, the southern States are not to be restrained from importing fresh supplies of wretched Africans, at once to increase the danger of attack and the difficulty of defence; nay, they are to be encouraged to it, by an assurance of having their votes in the National Government increased in proportion; and are, at the same time, to have their exports and their slaves exempt from all contributions for the public service. Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the General Government can stretch its hand directly into the pockets of the people, scattered over so vast a country. They can only do it through the medium



of exports, imports, and excises. For what, then, are all the sacrifices to be made? He would sooner submit himself to a tax for paying for all the negroes in the United States, than saddle posterity with such a Constitution.

Mr. Dayton seconded the motion. He did it, he said, that his sentiments on the subject might appear, whatever might be the fate of the amendment.

Mr. Sherman did not regard the admission of negroes into the ratio of representation as liable to such insuperable objections. It was the freemen of the southern States who were, in fact, to be represented according to the taxes paid by them, and the negroes are only included in the estimate of taxes. This was his idea of the matter.

Mr. Pinckney considered the fisheries, and the Western frontier, as more burdensome to the United States, than the slaves. He thought this could be demonstrated, if the occasion were a proper one. Mr. Wilson "thought the motion premature. An agreement to the clause would be no bar to the object of it."

And on the question to insert *free* before *inhabitants*, only New Jersey voted in the affirmative, and all the other States in the negative. *Ibid.*, 391.

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## CHAPTER XXXV.

### VETO POWER OF THE EXECUTIVE.

IN addition to the means of safety already noticed, designed by those who formed the Constitution to fortify the personal virtue and fidelity of the functionary in the execution of his trust, and to guard against evil from his misconduct in it, and to preserve intact, in all its parts, the republican system they aimed to establish, many other features might be enumerated, and many of which are not only wholly inconsistent with the kind of democracy now sought to be established, but expressly designed to guard against it. Their conservative policy is alike visible in the peculiar character of the Federal Constitution, and the State governments whose Constitutions had been previously framed.

Without here referring to the then existing provisions of the State Constitutions, in proof of this assertion, sufficient guards and restrictions are to be found in the United States Constitution to show the principles which influenced the conduct of its framers. Prominent among the provisions of this character is what is now called the veto power given to the Executive.

It is true, the first idea seems to have been to confer this power upon the Executive and the Judiciary; but Mr. Gerry raised a doubt of the propriety of joining the Judiciary in such a power. He thought they would "have a sufficient check against encroachments on their own

department by their exposition of the laws, which involved a power of deciding on their constitutionality ;” and that “it was quite foreign from the nature of their office to make them judges of the policy of public measures.” He moved, therefore, “that the National Executive shall have a right to negative any legislative act which shall not be afterwards passed by — parts of each branch of the National Legislature.”

Mr. King seconded this motion, “observing that the judges ought to be able to expound the law, as it should come before them, free from the bias of having participated in its formation.”

Col. Hamilton was against the latter part of the amendment, and in favor of giving the Executive “an absolute negative on the laws.” He thought “there was no danger of such power being too much exercised,” and said “that the king of Great Britain had not exerted his negative since the revolution.”

Dr. Franklin thought “this was a mischievous sort of check. If the Executive was to have a council, such a power would be less objectionable. It was true, the king of Great Britain had not, as was said, exerted his negative since the revolution ; but that matter was easily explained. The bribes and emoluments now given to the members of Parliament rendered it unnecessary, every thing being done according to the will of the ministers. He was afraid, if a negative should be given as proposed, that more power and money would be demanded, till at last enough would be got to influence and bribe the Legislature into a complete subjection to the will of the Executive.”

Mr. Sherman was “against enabling any one man to stop the will of the whole. No one man could be found so far above all the rest in wisdom. He thought we ought to avail ourselves of his wisdom in revising the laws, but not permit him to overrule the decided and cool opinions of the Legislature.”

Mr. Madison supposed that, if a proper proportion of each branch should be required to overrule the objections of the Executive, it would answer the same purpose as an absolute negative. It would rarely, if ever, happen that the Executive, constituted as ours is proposed to be, would have firmness enough to resist the Legislature, unless backed by a certain number of the body itself. The king of Great Britain, with all his splendid attributes, would not be able to withstand the unanimous and eager wishes of both Houses of Parliament.”

Mr. Butler “had been in favor of a single Executive magistrate ; but could he have entertained an idea that a complete negative on the laws was to be given him, he certainly should have acted very differently.” “Gentlemen seemed to think that we had nothing to apprehend from an abuse of the executive power. But might not a Cataline or a Cromwell arise in this country as well as in others ?”

Mr. Bedford "was opposed to every check on the Legislature, even the council of revision first proposed. He thought it would be sufficient to mark out in the Constitution the boundaries to the legislative authority, which would give all the requisite security to the rights of the other departments. The representatives of the people were the best judges of what was for their interest, and ought to be under no external control whatever. The two branches would produce a sufficient control within the Legislature itself."

Col. Mason said,—“The probable abuses of a negative had been well explained by Dr. Franklin, as proved by experience, the best of tests. Will not the same door be opened here? The Executive may refuse its assent to necessary measures, till new appointments shall be referred to him; and, having by degrees engrossed all these into his own hands, the American Executive, like the British, will, by bribery and influence, save himself the trouble and odium of exerting his negative afterwards.” “Notwithstanding the oppression and injustice experienced among us from democracy, the genius of the people is in favor of it, and the genius of the people must be consulted.” *5 Elliott's Debates*, 153.

The Convention having, by a unanimous vote of the States, rejected the proposition to give the Executive an absolute negative, Mr. Butler moved, and Dr. Franklin seconded it, to give the Executive power to suspend legislative acts for a limited period, whereupon Mr. Gerry remarked that this power “might do all the mischief dreaded from the negative,” and it was likewise unanimously rejected, after which Mr. Gerry's proposition was amended so as to enable two-thirds of both houses of Congress to overrule the President's veto, and then passed as amended, Connecticut and Maryland only voting against it. *Ibid.*, 155.

Towards the close of the Convention, Mr. Williamson “moved to reconsider the clause requiring three-fourths of each house to overrule the negative of the President, in order to strike out three-fourths and insert two-thirds. He had, he remarked, himself proposed three-fourths instead of two-thirds; but he had since been convinced that the latter proportion was the best. The former puts too much in the power of the President.” Mr. Sherman “was of the same opinion.” Mr. Hamilton “added his testimony to the fact, that two-thirds in New York had been ineffectual, either where a popular object, or a legislative faction, operated; of which he mentioned some instances.” Mr. Gerry said, “It is necessary to consider the danger on the other side also. Two-thirds will be a considerable, perhaps a proper security. Three-fourths puts too much in the power of a few men.” Mr. Williamson “was less afraid of too few than of too many laws.” Col. Mason “had always considered this as one of the most exceptionable parts of the system.” Mr. Gouverneur Morris “dwelt on the danger to the public interest, from the

instability of laws, as the most to be guarded against. On the other side there could be little danger. If one man in office will not consent where he ought, every fourth year another can be substituted." Mr. Pinckney "was warmly in opposition to three-fourths, as putting a dangerous power in the hands of a few senators, headed by the President." Mr. Madison said, "When three-fourths was agreed to, the President was to be elected by the Legislature, and for seven years. He is now elected by the people, and for four years. The object of the revisionary power is two-fold—first, to defend the Executive rights; secondly, to prevent popular or factious injustice. It was an important principle, in this and in the State constitutions, to check legislative injustice and encroachments. The experience of the States had demonstrated that their checks are insufficient. We must compare the danger from the weakness of two-thirds with the danger from the strength of three-fourths. He thought, on the whole, the former was the greater. As to the difficulty of repeals, it was probable that, in doubtful cases, the policy would soon take place of limiting the duration of laws, so as to require renewal, instead of repeal."

The reconsideration being agreed to, *two-thirds* was inserted instead of *three-fourths*, by the following vote: Connecticut, New Jersey, Maryland, (Mr. McHenry, *no*.) North Carolina, South Carolina, Georgia, 6 *yeas*; Massachusetts, Pennsylvania, Delaware, Virginia, (Col. Mason and Mr. Randolph, *yes*, and Gen. Washington, Mr. Madison, and Mr. Blair, *no*.) 4 *nays*, and New Hampshire, divided. *Ibid.*, 536.

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## CHAPTER XXXVI.

### MODE OF AMENDING THE CONSTITUTION.

ANOTHER great conservative feature, not at all in accordance with the democratic notions of modern reformers, but in entire harmony with the republican system the framers of the Constitution sought to establish, is to be found in the provision for future amendments to the Constitution. The first proposition agreed to was, that "on the application of the Legislatures of two-thirds of the States in the Union, for an amendment of this Constitution, the Legislature of the United States shall call a Convention for that purpose;" but this was afterwards reconsidered, and on motion of Messrs. Madison and Hamilton, was amended so as to read as follows: "The Congress, whenever two-thirds of both houses shall deem necessary, or on the application of two-thirds of the Legislature

of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three-fourths at least of the Legislatures of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, that no amendment which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of article 1." *Ibid.*, 532.

Subsequently, Mr. Sherman "expressed his fears that three-fourths of the States might be brought to do things fatal to particular States; as abolishing them altogether, or depriving them of their equality in the Senate. He thought it reasonable that the proviso in favor of the States importing slaves should be extended, so as to provide that no State should be affected in its internal police, or deprived of its equality in the Senate." Col. Mason "thought the plan of amending the Constitution exceptionable and dangerous. As the proposing of amendments is in both the modes to depend, in the first immediately, and in the second ultimately, on Congress, no amendments of the proper kind would ever be obtained by the people, if the government should become oppressive, as he verily believed would be the case." Mr. Gouverneur Morris and Mr. Gerry moved to amend the article, so as to require a Convention on application of two-thirds of the States. Mr. Madison "did not see why Congress would not be as much bound to propose amendments applied for by two-thirds of the States, as to call a Convention on the like application. He saw no objection, however, against providing for a Convention for the purpose of amendments, except only that difficulties might arise as to the form, the quorum, &c., which in constitutional regulations ought to be as much as possible avoided." The motion of Gouverneur Morris and Mr. Gerry was agreed to, *nem. con.* *Ibid.*, 551.

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## CHAPTER XXXVII.

### ADDITIONAL SAFEGUARDS.

VARIOUS other features of the Federal Constitution, and of the State Constitutions then in existence, might be referred to, in further corroboration of the conservative views of our early statesmen, showing that they had no design to establish a pure democratic form of government, and showing also that, though they were the champions of religious as well as civil

liberty, they all acknowledged their dependence on God, and did not deem one of an irreligious character a proper person to be entrusted with important public duties. On this subject, the following extract from an article in the *American Review* for July, 1849, is to the point:—

The pure principles of evangelical Christianity; of which nearly all the primary States made striking recognition, and even insisted upon it, as a condition of eligibility to office, that their servants in political life should do the same. The people required that evidence, along with others, that the men they voted for were honest and would be faithful. Massachusetts, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, and Georgia, seven States of the regularly constituted eleven, were imperative in this, and others went close to the mark. Sects and establishments were out of the question. Christianity in general, the religion of the country's *morals*, was the thing they wanted. The only doubt is, whether it was possible to make sure of the object in that way. Again, it was specially inserted in numbers of these early Constitutions, that persons selected to administer the government, must be "*wise, virtuous, discreet*" men, "*men of experience*," the best that could be found. The same object was in view here as before. And two things are, I think, implied: one, that of all safeguards against abuse, the solid worth of those who were to have the power of committing it, was most to be relied on; the other, that in taking such pains to bring men of great personal fitness and competency into public life, it was intended that they should use the power of their stations according to their own judgment and discretion, undisturbed from any quarter. Persons of such eminent qualities could not be wanted for *electoral tools*. Thirdly, various oaths were also required to be taken by the officers of the government, especially an oath of fidelity and an oath of allegiance to the State. To which in some cases was added an oath of abjuration, not only as to Great Britain, but as to "*every other foreign power whatsoever, political or ecclesiastical*."

The religious influences which operated upon the revolutionary patriots, and characterized all their acts, are forcibly portrayed, as well as the dangers to be apprehended from the influx of foreign infidels with which the land is now flooded, in an eloquent address delivered by the Rev. Dr. Tyng, at the anniversary of the American Sunday School Union, in May, 1848, from which the following extracts are made:—

"What was it, Mr. Chairman, that led our glorious Revolution to its happy result; which has guarded that result in the confirmation of the happiness and prosperity of the country; that has established us as a people, able to maintain our hold against the thousand evils and wickedness upon every side, working, diverting, distracting and overturning, apparently every influence for good? I answer, sir, beyond all other causes combined, was the deep and universal acquaintance with the Sacred Scriptures, scattered among the children of a former generation—the training of mind and heart and spirit, by which they were prepared and enabled to understand for what they must contend, and to contend successfully and triumphantly for the rights that they had established. It is not surprising that our Congress, in its very first assembling, should have ordered an edition of the Sacred Scriptures to be imported, I will not say printed. It is not surprising that a spirit like that should have governed in the minds of the men then gathered together; for every man of them had undoubtedly been taught from their very youth—from the beginning of their days—the power of those lively oracles. The land was inhabited by

a people that had gathered in with their mothers' milk the principles and influences of sacred instruction, and had learned from the very earliest period of their days that it is God's truth which makes men free with a liberty above the conflicts of earth. And it was that very spirit which carried them successfully through their early struggles, and it is the remnant of that very spirit which has maintained the republic in its influence and power, up to the present time.

"It is wonderful to me when I see the flood of immorality from other lands which is constantly breaking upon our shores, the overwhelming imported infidelity—for the greatest portion of the popular infidelity of this land is of a foreign and imported origin—when I see the anarchy which is bursting in upon us like a flood, and the licentiousness which is casting up its steaming vapor in all parts of the land, it is wonderful that this country has maintained its ground, that every institution of public order and domestic peace and personal liberty has not been swept off the earth before the power of that deluge which it has appeared impossible to resist. Nothing has maintained the country but the abiding influences of the hereditary instruction conferred upon generation after generation by our Christian fathers; influences, sir, buried so deep that all the pickaxes of infidelity have not been able to break them up; influences which have been sent abroa so extensively, and have entered so deeply into the vitals and minds of the people, that no power of evil has been able to eradicate them. It is amazing to me, as an observer of this country, not that our institutions have occasionally reeled and staggered, and presented the question whether they should stand or not, but that for these sixty years they have been able to stand under the overwhelming flood that has sapped their very foundations. Jesuitism, assuming every shape and form—from the polite dancing master who instructs your daughter, to the teacher of foreign languages who is educating your sons; laying aside the garb of the priestly office, and adopting the unsuspected and fanciful intercourse of common life—has endeavored to undermine public and private virtue and public and private liberty. It is amazing that this land has been able to endure against these stupendous influences which have been setting in upon it. It never would have endured, had not the fathers of the land done what your institution is trying to make the fathers of the present generation do for the generation which is to come.

"When I look, sir, at the amazing power of imported infidelity contained in foreign publications, which are republished here, and made to suit the tastes of our people, tempting them as the intoxicating demon tempts our nation, at the lowest price, it is amazing to me that our nation has not been swept away by a mob, and that it has been practicable for us to maintain ourselves beneath our own roofs, in the secure possession of our rights.

"I maintain, sir, that it has been nothing but the early irradiation of this country with the light of God's word—it has been nothing, sir, but the early salting down of the early population of this land with the savor of Divine knowledge inculcated in the early teachings of the New England fathers, which has preserved our country from being overwhelmed and destroyed.

"I hold it, sir, to be the duty of this republic to stand upon the conservative principles of liberty, which are sustained and upheld by the distinct recognition of the authority of the living God, and allow no new-born fraternity to be brought out upon principles anarchical and disorganizing, not recognizing that the Lord ruleth in the affairs of men. In such circumstances as these, then, are we to take a personal responsibility; and never since the generation that established the independence of '76, has there been a generation in this land over whom such responsibilities were cast—over whom there needed such an incubation of the spirit of the Most High, and around whom there

required such a wall of fire, to protect them from an influence that is attempting, in its power, to consummate their overthrow and prevent their being instruments of good to their fellow-men."

The features of the Constitution, and the views expressed by its framers, thus brought in review, show how different were the aims and purposes of our forefathers, compared with those which foreigners in our midst not only now proclaim as their own, but *demand* as a right to be carried out. The statesmen of the Revolution knew that *liberty* was a much-abused term, and that there is no word, as Montesquieu states, which had received more different significations. They knew that a democracy is not necessarily a free State, and were too sagacious not to distinguish the difference between the power of the people and the liberty of the people. They desired to avoid extremes, and, knowing it to be necessary that power should be confined by power to prevent its abuse, they sought to establish a form of government in which there was the least danger of the abuse of power. Hence not a single member expressed himself in favor of measures which are now urged by foreigners who have not resided long enough in the country to understand the true principles of the government, and who are profoundly ignorant of the difficulties which environed its establishment. "Universal suffrage," nor "the elections of all the officers" of the General Government, were not dreamed of by the framers of the Constitution.

Nor did they suppose it to be any part of their duty to establish "a department of the government for the protection of immigration;" but, on the contrary, the question with them was whether immigrants should be at all admitted to citizenship, and under what restrictions. Nor would such propositions as the abolition of the Sabbath, of prayers in public bodies, and of oaths upon the Bible, have for a moment been countenanced by them; they, on the contrary, as has been shown, were believers in the Bible, and, while they recognized the great principle of religious freedom, and made provision therefor in the Constitution, they nevertheless, in most, if not all the States, insisted upon the recognition of religion as a condition of eligibility to office.



## CHAPTER XXXVIII.

## AMERICAN POLICY OF NON-INTERVENTION.

As to the abolition of national neutrality, and the adoption of the intervention policy of Kossuth, which is now urged by the Free German Association, that, it is to be hoped, will only take place when the American people no longer revere the name of Washington, nor respect the lessons of wisdom taught them in his Farewell Address. As was truly and eloquently remarked by Commodore Stockton, at the Congressional Celebration of Washington's Birth-day, in 1852, "we shall be true to our country, the American people will be true to their country and to its Constitution, just so long as we are all true to the memory of Washington. Through all time, the virtue of our people will be gauged by the intensity of their veneration for his precepts of wisdom, by the vigor of their appreciation for his character, and by the respect which they cherish and manifest for his virtues. If the time shall come when unholy ambition, the lust for power, and foreign conquest or the glory of expensive war, shall animate our public men, and their fierce passions and dangerous designs cannot be checked by the remembrance of the probity of Washington and his policy, then indeed the golden age of this republic will be forgotten. If the time shall come, when, under the influence of generous, hospitable emotions, or ill-considered partiality, our people shall rashly seek to involve the republic in the stormy and wretched vortex of European politics; and, abandoning the ground of Washington, seek to place themselves on that of foreign powers—forgetful that their first and chief duty is to take care of their own country—*then*, if the farewell warnings of the Father of his Country cannot recall them to a true perception of the duties of patriotism, nothing but those calamities which entangling alliances, and the long and fearful train of evils which float in the wake of pernicious war, will reveal the delusion, the folly, and the errors of their degenerate age."

Those who now demand the abolition of neutrality, and the active intervention of our government in the affairs of other nations, ask nothing more nor less than to repudiate the Washingtonian policy, and no longer heed the warning voice of his Farewell Address. In that memorable State paper he thus cautions his countrymen on this subject:

"The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

"Europe has a set of primary interests, which to us have none, or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities.

"Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

"Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?"

Nor is this the only expression of his opinion on the subject. Numerous letters written by him may be referred to in which similar views were expressed. In one, addressed to Patrick Henry, dated October 9, 1795, he says:

"My ardent desire is, and my aim has been, so far as depended on the Executive department, to comply strictly with all our engagements, foreign and domestic, but to keep the United States free from political connections with any other country—to see them independent of all, and under the influence of none. In a word, I want an *American* character, that the powers of Europe may be convinced we act for *ourselves* and not for others. This, in my judgment, is the only way to be respected abroad and happy at home," &c.

This is emphatic enough. Nothing left for exegetical skill to exercise itself upon. His ardent desire is to keep "the United States free from political connections with any other country." In another, addressed to Gouverneur Morris, dated December 22, 1795, he uses this language:

"My policy has been, and will continue to be, while I have the honor to remain in the administration, to maintain friendly terms with, but to be independent, of all the nations of the earth; to share in the broils of none; to fulfill our own engagements; to supply the wants and to be carriers for them all," &c.

Again, in a letter written by him to Alexander Hamilton, in 1796, when Lafayette was imprisoned in Austria, and an effort was made by Americans to release him, he uses the following strong and remarkable language:

"The result of my reflections on this subject, and which I have communicated to the two young men, is, that although I am convinced in my own mind that Mr. Lafayette will be held in confinement by the combined powers until peace is established, yet, to satisfy them and their friends of my disposition to facilitate their wishes, so far as can be done with any propriety on my part, I would, as a *private citizen*, express in a letter to the Emperor my wish, and what I believe to be the wishes of this country towards that

gentleman, viz. : that the liberation of him, conditioned on his repairing hither, would be a grateful measure."

General Washington, as we all know, must have had more feeling upon this subject than could have found an existence in the bosom of any other living man. Lafayette was his friend and companion in our conflict for liberty; and with all those generous, and noble, and heaven-descended emotions that must have filled the breast of that great and good man; yet, under circumstances of so much feeling and sympathy, such was the regard of Washington for his own country, that he refused to interpose, even in that case, except as a private citizen. Yet now we are told, by these foreign reformers, that, in this enlightened day of "progress," Washington was declaring a policy good for that day, but not for this, when his mighty soul, heaving with affection for his companion in arms, could not so far forget his own policy, and what was due to his country, as to write an official letter in favor of his release. Again, upon a similar occasion, in writing to Hamilton, when Mr. Talleyrand de Perigord was here, General Washington said :

"My wish is, and it is not less my duty as an officer of the republic, to avoid offence to powers with whom we are in friendship, by conduct towards their proscribed citizens which would be disagreeable to them; whilst, at the same time, these immigrants, if people of good character, ought to understand that they will be protected in their persons and property, and will be entitled to all the benefits of our laws. For the rest they must depend upon their own behavior, and the civilities of citizens at large, who are less restrained by political considerations than the officers of government must be."

Here, again, we find General Washington declaring the same principle, in language so strong, so clear, and so plain, that none can misunderstand him. And in a letter to William Heath, dated May 20, 1797, he again declares :

"No policy, in my opinion, can be more clearly demonstrated than that we should do justice to all, and have no political connection with any of the European powers beyond those which result from and serve to regulate our commerce with them," &c.

This is equally explicit. It shows distinctly the only object which, in his judgment, would justify political connection with foreign countries, viz. : a connection growing out of or serving to regulate our commerce with them. In a letter to Thomas Pinckney, dated May 28, 1797, he says :

"A little time will show who are its [the country's] true friends, or, what is synonymous, who are true Americans—those who are stimulating a foreign nation to unfriendly acts, repugnant to our rights and dignity, and advocating all its measures, or those whose only aim has been to maintain a strict neutrality, to keep the United States out of the vortex of European politics and preserve them in peace."

And still later, in a letter to Gen. Lafayette, dated Dec. 25, 1798, he says :

"On the politics of Europe I shall express no opinion, nor make any inquiry who is right or who is wrong. I wish well to all nations and to all men. My politics are plain and simple. I think every nation has a right to establish that form of government under which it conceives it may live most happy, provided it infracts no right or is not dangerous to others ; and that no governments ought to interfere with the internal concerns of another, except for the security of what is due to themselves."

Such was the policy of Washington, and such has been the policy of our government ever since its establishment, as might easily be shown by historical references, among which it may not be out of place to note the following language used by Henry Clay, while Secretary of State, in his instructions to Mr. Poinsett, relative to the Panama mission :

"Finally, I have it in charge to direct your attention to the subject of the forms of government, and to the cause of free institutions on this continent. The United States never have been, and are not, animated by any spirit of propagandism. They prefer to all other forms of government, and are perfectly contented with their own confederacy. Allowing no foreign interference, either in the formation or the conduct of their government, they are equally scrupulous in refraining from all interference in the original structure or subsequent interior movements of the government of other independent nations. *Indifferent they are not, because they cannot be indifferent to the happiness of any nation.* But the interest which they are accustomed to cherish in the wisdom or folly which may mark the course of other powers in the adoption and execution of their political system, is rather a sympathy of feeling than a principle of action."

And such, too, was the language of Gen. Jackson, in his fourth annual message to Congress, as will be seen by the following extract from it :

"In the view I have given of our connection with foreign powers, allusions have been made to their domestic disturbances or foreign wars, to their revolutions or dissensions. It may be proper to observe, that this is done solely in cases where those events affect our political relations with them, or to show their operation on our commerce. Further than this, it is neither our policy nor our right to interfere. Our best wishes on all occasions, our good offices when required, will be afforded to promote the domestic tranquillity and foreign peace of all nations with whom we have any intercourse. Any intervention in their affairs further than this, *even by the expression of an official opinion*, is contrary to our principles of international policy, and will always be avoided."

Thus far our government has perseveringly adhered to the advice given by Washington on this subject. Its policy, to use the language of Jefferson, has been : "Equal and exact justice to all men, of whatever State or persuasion, religious or political ; peace, commerce, and honest friendship with all nations, *entangling alliances with none* ;" and it is most devoutly to be hoped that there must be other reasons than those urged by the Free German Association, or any which have yet been suggested from any other source, to make true and patriotic Americans depart from

it. "We have seen great principles laid down by Washington, for the administration of this government," said Henry Clay, in a letter, dated February 21, 1852, written but a few months before his death, "especially in regard to its foreign policy, drawn in question, his wisdom doubted, and serious efforts made and making to subvert those maxims of policy by the conformity to which this nation has risen to its present unparalleled greatness. We have seen serious attempts to induce the United States to depart from its great principles of peace and neutrality, of avoiding all entangling alliances with foreign powers, and of confining ourselves to the growth, improvement and prosperity, of our new country, and, in place of them, to plunge ourselves, by perilous proceedings and insensible degrees, in the wars of Europe. Under such circumstances, it is right, and proper, and useful, to repair to the great fountain of Washington's patriotism, and, drinking deep at it, to return refreshed and invigorated by the draught."

And who can doubt the wisdom and propriety of the suggestion here made by the great statesman? A reassertion of his principles, said Theo. Frelinghuysen, about the same time, "was never more needed than at this time, and we must still hope that the sober reflection of our people will yield to the wisdom and truth of his counsels." Washington's policy was a wise, enlightened, comprehensive *American* policy. His object, as has been well remarked by Senator Toombs, was that to which his whole life had been devoted, to protect and to perpetuate the liberty and independence of his country. The special dangers against which he warned his countrymen were "political connection" with European governments, "implicating ourselves by artificial ties in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships and enmities," quitting "our own to stand on foreign ground," "interweaving our destiny with that of any part of Europe," "entangling our peace and prosperity in the toils of European ambition, rivalry, *interest*, humor or caprice," subjecting "the will and policy" of this country "to the will and policy" of other countries. He negatives the reasoning as well as the fact of entangling our country in European politics. His argument answers all the plausible fallacies in favor of a crusade for pulling down despotisms or building up republics; and asserts clearly and distinctly our duty to act justly and impartially towards all nations, no matter what may be their form of government—towards all belligerents, no matter what may be their cause of quarrel. He sought to place his country in a position, where, neither entangled by foreign alliances, nor compromitted with foreign politics or interest, she might, on all occasions and in every emergency, freely adopt that policy which might be best calculated to protect her own rights, maintain her own interests, and promote her own happiness. If it be necessary to

secure these great ends, to interfere in the affairs of other nations, then it is not only our right but our duty to interfere. But that interference must not be as an intermeddler in the affairs of others, but as a party with rights to assert and interests to maintain.

The past and the present bear witness to the wisdom of this policy; and who are they that would overthrow it? They are those from other climes, who have never repaired to the "fountain of Washington's patriotism, and drinking deep at it, returned refreshed and invigorated by the draught." They have yet to learn his lessons of wisdom and profit by them. It is for Americans, then, to follow them. To use the language of the eloquent Crittenden, we may say with him, "Washington has taught us, and we have learned to govern ourselves. If the rest of the world have not yet learned that great lesson, how shall they teach us? Shall they undertake to expound to us the Farewell Address of our Washington, or to influence us to depart from the policy recommended by him? We are the teachers, and they have not or they will not learn; and yet they come to teach us. Be jealous of all foreign influence, and enter into entangling alliances with none. Cherish no particular partiality or prejudice for or against any people. Be just to all—impartial to all. It is folly to expect disinterested favors from any nation. That is not the relation or character of nations. Favor is a basis too uncertain upon which to place any steadfast or permanent relations. Justice and the interests of the parties is the only sound and substantial basis for national relations. So said General Washington—so he teaches. He asks, 'Why quit our own, to stand on foreign ground?' Go not abroad to mingle yourselves in the quarrels or wars of other nations. Take care to do them no wrong, but avoid the romantic notion of righting the wrongs of all the world, and resisting by arms the oppression of all."

And where is the *American*, who reveres the memory of the Father of his country, and cherishes the rich legacy he has left to his countrymen in his Farewell Address, that will not say, to continue the language of Mr. Crittenden, "I feel that my country is safer, while pursuing the policy of Washington, than in making any new experiments in politics, upon any new expositions of Washington's legacy and advice to the American people? I want to stand *super antiquas vias*—upon the old road that Washington travelled, and that every President, from Washington to Fillmore, has travelled. This policy of non-intervention in the affairs of other countries has been maintained and sanctified by all our great magistrates. I may be defective in what is called 'the spirit of the age,' for aught I know; but I acknowledge that I feel safer in this ancient and well-tried policy than in the novelties of the present day."

## CHAPTER XXXIX.

## POLICY OF AMERICANS FOR AMERICA.

Efforts were made by some of the States, soon after the adoption of the Constitution, to cause a distinction to be made between native and naturalized citizens, and to make the latter ineligible to certain offices. Massachusetts led off in a movement of this kind in 1798, which was responded to by the Virginia Legislature, in the passage of the following preamble and resolution, on the 16th of January, 1799. See *Henning's Statutes at large, vol. ii. (new series), page 194 :—*

"That the General Assembly nevertheless concurring in opinion with the Legislature of Massachusetts, that every constitutional barrier should be opposed to the introduction of foreign influence into our National Councils:

"Resolved, That the Constitution ought to be so amended that no foreigner who shall not have acquired rights under the Constitution and Laws, at the time of making this amendment, shall thereafter be eligible to the office of Senator and Representative in the Congress of the United States, nor to any office in the Judiciary or Executive Departments."

In New Hampshire, a committee appointed by the Legislature for the purpose, Nov. 24, 1798, reported a petition, praying Congress to alter the Constitution respecting the qualification for members of Congress, and recommending that none but natural-born citizens should be eligible to the Vice Presidency as well as the Presidency; and also to "exclude from a seat in either branch of Congress, any person who shall not have been actually naturalized at the time of making this amendment, and have been a citizen fourteen years at least at the time of his election."

The American policy adopted by the Continental Congress, which was dictated alike by reason and patriotism, in relation to the appointment of persons to represent the government in foreign countries, seems to have been followed after the establishment of the Federal Government, and never departed from except in the case of Albert Gallatin, who was a native of Switzerland, until President Pierce saw proper to outrage the feelings of the country, by appointing a Frenchman as Minister to Spain, a German to the Hague, a Scotchman to Naples, and an Irishman to one of the other European Courts. During the last term of Mr. Madison's administration, he appointed Mr. Gallatin one of the Commissioners to negotiate a peace with Great Britain; when his appointment was presented to the Senate for confirmation, it met with the opposition of General Smith, of Maryland, W. B. Giles, of Virginia, and Stone, of North Carolina, and

he was rejected by a vote of 18 to 17. He was afterwards appointed by Mr. Madison, Minister to France, and was barely confirmed, in the absence of the above named gentlemen. If any apology can be offered for Mr. Madison, for this innovation on the established policy of the government, it might be found in the fact that Mr. Gallatin came to the United States in 1781, or previous to the adoption of the present Constitution. He had long been in public life, and held high stations; was a man of much experience and had been well schooled in our political institutions. Other instances of hostility to the appointment of any others than native born to offices in the foreign service of the country might be given. Not more than a dozen years since, while Daniel Webster was Secretary of State, some of the editors of Democratic journals could hardly find language strong enough to express their indignation at him for appointing a foreigner to a clerkship in that department. The *New York Evening Post*, then as now edited by Wm. C. Bryant, published an article on the subject, which was copied into the *Washington Globe*, from which the following is an extract:—

"The appointment of a man named Reynolds, *an alien*, by Mr. Webster, to a place in the Department of State, has astonished those who knew him in this city. \* \* \* *The indecency of this appointment of an alien* to a post in the department which has the charge over our foreign relations, will surprise those who have not, like us, ceased to be surprised at anything done by Mr. Webster."

After the adoption of the Constitution, in his first annual message to Congress, Washington said: "Various considerations render it expedient that the terms on which foreigners may be admitted to the rights of citizens, should be speedily ascertained by a uniform rule of naturalization;" but, in regard to the employment of foreign-born citizens in the public service, he does not seem to have changed the views entertained by him during the Revolution, as may be seen by the following letters written by him while President, and found in Spark's publication:—

*Philadelphia, Nov. 17, 1794.*

*To John Adams, Vice President of the U. S.* Dear Sir:—\* \* \* My opinion with respect to immigration is, that except of useful mechanics and some particular description of men and professions, there is no use of encouragement. I am, etc.,

G. WASHINGTON.

*Mt. Vernon, Jan. 20, 1790.*

*To J. Q. Adams, American Minister at Berlin—Sir—* \* \* \* You know, my good sir, that it is not the policy of this government to employ foreigners when it can well be avoided, either in the civil or military walks of life. \* \* \* There is a species of self-importance in all foreign officers, that cannot be gratified without doing injustice to meritorious characters among our own countrymen, who conceive, and justly, where there is no great preponderance of experience or merit, that they are entitled to all the offices in the gift of their government. I am, etc.,

G. WASHINGTON.

[Vol. XI. p. 392.]



*Same date, to a foreigner applying for office.*

DEAR SIR:— \* \* \* It does not accord with the policy of this government to bestow offices, civil or military, upon foreigners, to the exclusion of our own citizens.

Yours, etc., G. WASHINGTON.

And he seems to have been equally opposed to immigration. In a letter to Sir John St. Clair, of England, he declared his opposition thereto in the very positive following terms:—

“I have no intention to invite immigrants, even if there are no restrictive acts against it. I am opposed to it altogether.”

So in a letter published in *Washington's Maxims*, p. 89, written in 1794, he expresses himself as follows:—

“My opinion with respect to immigration is, that, except of useful mechanics, and some particular descriptions of men or professions, there is no need of encouragement; whilst the policy or advantage of its taking place in a body (I mean the settling of them in a body) may be much questioned, for by so doing, they retain the language, habits and principles, good or bad, which they bring with them. Whereas, by an intermixture with our people, they or their descendants get assimilated to our customs, measures and laws; in a word, soon become our people.”

John Adams entertained similar views, and we find that during his administration the following order was issued from the War department:

*War Department, Feb. 4th, 1799.*

*Instructions of the Secretary of War to the Inspector General.*

\* \* \* For the cavalry, for the regulations restrict the recruiting officers to engage none except natives for this corps, and these only as from their known character and fidelity may be trusted.

And in a letter to Christopher Gadsden, (see his life of his grandson, page 584.) gives expression to the following sentiments:—

“What is the reason that so many of our ‘old stand-bys’ are infected with Jacobinism? The principles of this infernal tribe were surely no part of their ancient political creed. Foreign meddlers, as you properly denominate them, have a strange, a mysterious influence in this country. Is there no pride in American bosoms? Can their hearts endure that C., D., and L., should be the most influential men in the country—all foreigners and all degraded characters? It is astonishing to me that the ‘tribes of law followers’ should adopt principles subversive of all law, should unite with the ignorant and illiberal against men of understanding and property. The plan of our worthy friend, John Rutledge, relative to the admission of strangers to the privileges of citizens, as you explain it, was certainly prudent. Americans will find that their own experience will coincide with the experience of all other nations, and foreigners must be received with caution, or they will destroy all confidence in government.”

Thomas Jefferson, though the author of the liberal naturalization law of Virginia, enacted in 1779, seems to have been, several years afterwards, strongly imbued in favor of discriminating, in certain cases, between native

and naturalized citizens; for we find by his writings that he was the author of a petition to the Virginia Legislature, presented in 1797, and signed by citizens of Albemarle, Amherst, Fluvanna, and Goochland counties, praying that none but native born citizens should be eligible as jurors in grand or petty, civil or criminal cases. The petition was as follows:

"And your petitioners further submit to the wisdom of the two houses of Assembly, whether the safety of the citizens of this commonwealth, in their persons, their property, their laws and government, does not require that the capacity to act in the important office of a juror, grand or petty, civil or criminal, should be restrained in future to native citizens of the United States, or such as were citizens at the date of the treaty of peace which closed our revolutionary war, and whether the ignorance of our laws and natural partiality to the countries of their birth, are not reasonable causes for declaring this to be one of the rights incommunicable in future to adopted citizens." *Jefferson's Writings*, vol. ix., p. 453.

Nor is this an isolated instance of his expression of opinion on the subject. On another occasion he wrote thus:

"I hope we may find some means in future of shielding ourselves from foreign influence—political, commercial, or in whatever form attempted. I can scarcely withhold myself from joining in the wish of Silas Dean, that there were an ocean of fire between this and the old world!"

While minister to France, in 1788, he wrote a letter to Mr. Jay, from which the following extract is taken:

"*Native citizens, on several valuable accounts, are preferable to aliens, or citizens alien born. Native citizens possess our language, know our laws, customs and commerce; have general acquaintance in the United States, give better satisfaction, and are more to be relied on in point of fidelity. To avail ourselves of native citizens, it appears to me advisable to declare by standing law that no person, but a native citizen, shall be capable of the office of consul.*"

But, though these seem at one time to have been the views of Mr. Jefferson, it is a well-known historical fact, that he was uncompromisingly hostile to the Congressional legislation in relation to foreigners, which took place under the administration of the elder Adams, and that he recommended, after his election to the Presidency, in his first annual message to Congress, to reduce the term of probation necessary to be naturalized, which recommendation was adopted by Congress, and the act of 1802 passed, reducing the time from fourteen to five years. The following extract from a letter of Grant Thorburn, who is himself a naturalized citizen, published within the last year past in the *Home Journal*, may not be out of place here, though, if true, and Mr. Thorburn's character forbids us to doubt, for a moment, his statement as to what Mr. Burr told him, it presents a singular contrast with the views which Mr. Jefferson seems before to have entertained on the subject:

"In 1801, Thomas Jefferson became President of the United States. Aaron Burr, Joel Barlow, Thomas Paine, and others, were his privy counsellors. Now commenced the age of *experiments*. Mr. Jefferson, in his inaugural speech, recommended *rotation in office*, and to sell our frigates and build *gun-boats*. The frigates were sold for less than the price of the rigging. In seven years thereafter, I saw the *gun-boats* transformed into *dung-beats*, transporting manure from the old Fly Market, foot of Maiden Lane, to raise pumpkins among the Dutch farmers on Long Island.

But the *rotation in office* was a more serious concern. The Irish rebellion of 1798 had just been suppressed; hundreds were ordered to leave the country; America was their goal. These patriots *must* be provided for. A secret conclave was held in the star-chamber, Burr and Jefferson being the master-spirits. It was resolved to secure these patriots, and this would secure the votes of all their countrymen, who were daily arriving by thousands on these peaceful shores. (After Col. Burr returned from Europe, whither he had fled, after the death of Hamilton, he gave me this piece of political intrigue.) In accordance with this cold-blooded plan, I saw revolutionary men and officers who had fought with Washington, pine in the prison-ship and groan in the sugar-house. Yes, I saw them marched out of the Custom-house, Post, and every other office, some on crutches, some having one leg, some one arm, and others leaning on their staffs from wounds received in defence of their country. I saw their places filled by foreign patriots, many of them never having learned a letter of their own language, and not even able to speak a word of ours; but such is the gratitude of model republics.

Then commenced the flood of foreign influence, which threatens to place us on the same list with the republics that were.

I was naturalized, and voted when Washington was President; I therefore think that I have as good a right to think as any freethinker in America. I saw the rise and the fall of the French and Mexican republics; both were strangled in their birth by the hands of freethinkers and priests. The same tools are at work among us; and a few Judas Americans are selling their liberties to a foreign potentate for a mess of pottage; and, except God work a miracle, I think, before January, 1901, our dear sister republics, France and Mexico, may look up and exclaim, 'Lo, America also, may become like one of us.'

The signs of the times are portentous; with few exceptions, the pulpit and the press are silent on the subject. Having watched the republic since the day of its birth, for my brethren and companions' sake, I wish it prosperity; for myself, there is but a step between me and death."

'Be the representations of Mr. Thorburn, however, correct, or not, and there can be little doubt that they were made to him by Mr. Burr, the conduct of Mr. Jefferson subsequent to his election to the Presidency, though in favor of a modification of the naturalization law of 1798, does not seem to indicate any change in his previous opinion as to the employment of foreigners in the administration of the government; for we find him writing thus, just ten weeks after he became President, in a letter to Nathaniel Macon, Speaker of Congress:

"A very early recommendation had been given to the Postmaster General to employ no foreigner, or revolutionary tory, in any of his offices."

And in his *Notes on Virginia*, we have further evidence of his views and feelings on the subject. He therein expresses himself as follows:

"Every species of government has its specific principles. Ours perhaps are more peculiar than those of any other in the universe. It is a composition of the freest principles of the English constitution, with orders derived from natural right and natural reason. To these nothing can be more opposed than the maxims of absolute monarchies. Yet from such we are to expect the greatest number of immigrants. They will bring with them the principles of the governments they leave, imbibed in their early youth; or, if able to throw them off, it will be in exchange for an unbounded licentiousness, passing, as is usual, from one extreme to another. It would be a miracle were they to stop precisely at the point of temperate liberty. These principles, with their language, they will transmit to their children. In proportion to their numbers, they will share with us the legislation. They will infuse into it their spirit, warp and bias its directions, and render it a heterogeneous, incoherent, distracted mass. I may appeal to experience, during the present contest, for a verification of these conjectures. But, if they be not certain in event, are they not probable? Is it not safer to wait with patience twenty-seven years and three months longer, for the attainment of any degree of population desired or expected? May not our government be more homogeneous, more peaceable, more durable? Suppose twenty millions of republican Americans thrown all of a sudden into France, what would be the condition of that kingdom? If it would be more turbulent, less happy, less strong, we may believe that the addition of half a million of foreigners to our present numbers would produce a similar effect here. If they come of themselves, they are entitled to all the rights of citizenship; but I doubt the expediency of inviting them by extraordinary encouragements."

In an oration delivered at the request of Congress, by General Henry Lee, December 20, 1799, on the death of Washington, Mr. Lee used the following language:

"Methinks I see his august image, and hear falling from his venerable lips these deep sinking words: 'Cease, sons of America, lamenting our separation! Go-on, and confirm by your wisdom, the fruits of our joint councils, joint efforts, and common dangers! Reverence religion, diffuse knowledge throughout your land, patronize the arts and sciences. Let liberty and order be inseparable companions. Control party spirit, the bane of free governments. Observe good faith to, and cultivate peace with, all nations. Shut up every avenue to foreign influence; contract rather than extend national connection; rely on yourselves only. Be Americans in thought, word and deed. Thus will you give immortality to that Union, which was the constant object of my terrestrial labors; thus will you preserve undisturbed to the latest posterity the felicity of a people to me most dear; and thus will you supply (if my happiness is now sought to you) the only vacancy in the round of pure bliss high Heaven bestows.'"

In 1815, on the 4th of July, the Hon. James Buchanan delivered an Oration in the city of Lancaster. From that oration we make the following extract. It is upon the subject of foreign influence and upon the policy that the United States ought to pursue towards foreign nations. Mr. Buchanan said:

"Again we stand neutral towards all the European powers. What then shall be the political conduct of our country in future? Precisely to pursue the political maxims adopted by Washington. We ought to cultivate peace with all nations by adopting a strict neutrality not only of conduct but of sentiment. We ought to make our neutra-

lity respected by placing ourselves in an attitude of defence. We ought forever to abandon the wild project of a philosophic visionary of letting commerce protect itself. For its protection we ought to increase our navy. We ought never to think of embargoes and non-intercourse laws without abhorrence. We ought to use every honest exertion to turn out of power those weak and wicked men, who have abandoned the political path marked out for this country by Washington, and whose wild and visionary theories have been at length tested by experience and found wanting. Above all, we ought to drive from our shores foreign influence, and cherish exclusively American feelings. Foreign influence has been in every age, the curse of republics. Her jaundiced eyes see all things in false colors. The thick atmosphere of prejudice, by which she is forever surrounded, excludes from her sight the light of Heaven. Whilst she worships the nation which she favors for this very crime, she curses the enemy of that nation even for their virtues. In every age she has marched before the enemies of her country, proclaiming peace when there was no peace, and lulling its defenders into fatal security, while the iron hand of despotism was aiming a death-blow at their liberties. Already our infant republic has felt her withering influence. Already has she involved us in a war, which had nearly cost us our existence. Let us then learn wisdom from experience, and forever banish this fiend from our society."

William H. Crawford, while Secretary of War under the administration of James Madison, made a Report on Indian Affairs, in March, 1816, in which he expressed himself as follows, which caused him to be made the object of bitter assault from foreigners, and those who sided with them, and which, it was believed at the time, mainly defeated his nomination for the Presidency when Mr. Monroe was nominated and elected :

If the system already devised has not produced all the effects which were expected from it, new experiments ought to be made ; when every effort to introduce among them (the Indian savages) ideas of exclusive property in things as well as persons shall fail, let intermarriages between them and the whites be encouraged by the government. This cannot fail to preserve the race, with the modification necessary to the enjoyment of civil liberty and social happiness. It is believed, that the principles of humanity in this instance, are in harmonious concert with the true interests of the nation. It will redound more to the national honor to incorporate, by a humane and benevolent policy, the natives of our forests in the great American family of freedom, than to receive, with open arms, the fugitives of the old world, whether their flight has been the effect of their crimes or their virtues.

The expression of these sentiments, as already stated, gave rise to much hostility to Mr. Crawford, especially among those of foreign birth, and among the most prominent and talented assailants was Thomas Cooper, then of Pennsylvania, but subsequently a resident of South Carolina. He addressed, through the columns of the *Democratic Press*, over the signature of *Americus*, several letters to President Madison on the subject, in which he assailed Mr. Crawford with great acrimony, denouncing him as a bigot, and his report to be a "wanton insult of his colleagues in office, Mr. Dallas and Mr. Gallatin," and to the President "who appointed these well-informed and able men."

The same year an attempt was also made by John Randolph, to discriminate in favor of *native* citizens, when the bill to charter the United States Bank was under consideration in the Committee of the Whole, in the House of Representatives, and it was carried in the Committee, but afterwards stricken out. See *Niles' Register*, vol. x., pp. 31 and 47. The proceedings were as follows :

Mr. Randolph moved to add the word *native* in the clause which limited the choice of directors to citizens of the United States, which motion was agreed to without debate—ayes 68, nays not given. After the committee had proceeded to the clause which provided for the appointment of directors for the branch banks, which clause likewise restricted the choice to citizens of the United States, Mr. Jewett moved that the word *native* be inserted also in that clause, so as to limit the appointment also to *native* citizens. Mr. Calhoun objected to the amendment. It was the first time, he said, that any attempt had been made in this country to discriminate between native and naturalized citizens. The Constitution recognized no such distinction, except in the eligibility to the highest office in the government, and he could see no reason for introducing on this occasion so odious and unprecedented a distinction. Mr. Randolph, in reply, spoke at considerable length in support of the motion. He inveighed with much acrimony against the whole class of naturalized citizens; attributing to them the declaration of war, and almost all other political evils—and maintaining that they ought to be admitted only on the footing of denizens, without any participation in the councils of the country, and the benefit only of protection during good behavior, &c. Mr. Wright replied with warmth to Mr. Randolph—after which, the question was taken on Mr. Jewett's motion, and it was lost without a division.

The same fate attended Mr. Randolph's proposition when the bill was considered in the House, notwithstanding it had passed in Committee of the Whole, without debate or any serious opposition. For the reason urged by Mr. Calhoun against Mr. Jewett's amendments, he also opposed the one which had been agreed to at Mr. Randolph's instance, and thereupon the decision of the Committee of the Whole was reversed, and the word *native* rejected—ayes 44, nays 67.

In a letter, addressed to Dr. Coleman, by Gen. Jackson, dated Aug. 26, 1824, the Hero of New Orleans expressed the following sentiment:—

"In short, sir, we have been too long subject to the policy of British merchants. It is time we should become a little more AMERICANIZED, and instead of feeding paupers and laborers of England, feed our own; or else, in a short time, by continuing our present policy, we shall be paupers ourselves."

In the Reform Convention of Pennsylvania, held in 1837, to amend the Constitution of the State, Mr. Magee, of Perry, submitted a resolution to inquire into the expediency of prohibiting free persons of color and fugitive slaves to migrate into the State, which was proposed to be amended by Mr. Thomas, of Chester, so as to include foreigners, but subsequently withdrawn to enable Mr. Woodward, of Luzerne, to propose to amend by adding, "and that the said committee be also instructed to

inquire into the propriety of so amending the Constitution, as to prevent any foreigner who may arrive in this State after the fourth of July, 1841, from acquiring the right to vote or to hold office in this Commonwealth." This amendment was violently assailed as proscriptive and illiberal, which called forth a reply from Judge Woodward. He said:—

I have long felt a desire, said Mr. W., that something should be done in relation to it—that the facts should be investigated, and that some proper and efficient measures should be adopted, if upon that investigation it should turn out that measures of any kind were requisite.

Sir, I appreciate as much as any man living, the many political rights and privileges which I, in common with the people of the United States, am now enjoying; and it is my honest impression that we do but squander those privileges in conferring them upon every individual who chooses to come and claim them. He knew that a great portion of those who came among us from foreign countries, consist frequently of the worst part of the population of those countries, that they are unacquainted with the value of these privileges, and that, therefore, they do not know how to value them. I think that in thus conferring indiscriminately upon all, we are doing injury to our liberties and our institutions; and I believe that if the time has not yet come, it will speedily come, when it will be indispensably necessary either for this body or some other body of this State, or of the United States, to inquire whether it is not right to put some plan in execution by which foreigners should be prevented from controlling our elections, and brow-beating our American citizens at the polls.

At the time the Constitution of the United States was formed, it was necessary to promote immigration. The population of our country was wasted by a long war; and it was necessary to hold out inducements to foreigners to come here. But times have greatly changed within the last few years. The reason and the necessity for extending this indulgence to immigrants have ceased. Besides this, it is to be considered that there are other inducements in the climate, and in the natural advantages of the country to prevail upon them to come here, without adding to them the incentive of office. In expressing these sentiments, Mr. Chairman, I wish to be understood that I cherish no prejudice against foreigners, I entertain no feeling of unkindness towards them, from whatever part of the world they may come, nor would I do any thing which should have a tendency to proscribe them from coming. We have many very estimable men among them; and I do not propose in my amendment to take any thing away from them. I merely wish that a committee should inquire, whether it is competent for us to introduce a provision into the Constitution of the kind I have mentioned, to take effect after a certain date, so long distant that all future immigrants may know what their privileges are to be, before they leave their own country. My proposition is not intended, nor will it operate, retrospectively; it affects no one now here, and no one who may be on his way here. It looks exclusively to the future. What valid objection can there be to the inquiry? Why should we throw open these great political privileges to every species of character that may light on our shores? Are these privileges of such little value, that we do not deem them worth protection or defence? Have they no claim upon our feelings—no claim upon our affections? \* \* \* Have they not been bequeathed to us by those who sacrificed all they had on earth to secure them? Are they not truly and emphatically our most precious legacy? And what claim have foreigners from any country—aye, sir, from *any* country, which is strong enough to justify us in prostituting our political privileges by conferring them carelessly and indiscriminately

on any individual who may reside here for two or three years—become a naturalized citizen—and then command our offices? There are very many of these immigrants who know nothing of political privileges in their own country before they immigrate to this. The word is unknown to them, or if they hear it at all, they hear of it as something in which they have no participation. Is not this the fact? Sir, we all know that it is; we know that very many of these immigrants never enjoyed any political privileges themselves—that they have no knowledge of them—and, least of all, have they any knowledge of our people, our government, or our institutions. The acquirement of this knowledge is not the work of a day. They have no sympathy in common with us; they have no gratifications to render them fit recipients of these high political privileges. If any of us chose to pass over to England, Ireland or France, and to settle ourselves there, what do we gain by the change—I mean in a political point of view? Nothing; we lose all. We are not suffered to acquire any political privileges such as we bestow upon them. There is no reciprocity—the advantage is all on one side; and whatever we may give to them, we ourselves can acquire nothing of the kind. Why should this be so? Or, if the adoption of such a system was necessary at one time, why should it still be adhered to, when every thing in the form of necessity has long since passed away? I can discover neither wisdom nor policy in so doing. The idea, Mr. President, is simply this—I would afford to all foreigners who shall come to this country after the date of my amendment, protection in their person, their property, and all the natural rights which they could enjoy under any civilized or well ordered government. I would permit them to acquire wealth; to pursue objects of their own ambition; I would, in short, allow them to become in all respects equal citizens with us, except only in this one matter of political privileges. All their natural and their civil rights should be amply guaranteed and protected; and they should become citizens in common with us in relation to all objects, except voting and holding office. And do we not hold out sufficient inducements for foreigners to make this country their home, even if we take from them these political privileges? Surely, sir, we do—such, indeed, as no other nation upon earth can proffer.

But, Mr. President, it is not my design to enter into the discussion of this matter at the present time; and I owe an apology to the convention for having said so much in regard to it. I have a strong feeling on the subject; though I confess that I entertain doubts whether this convention has the power to act. I am well aware of the nature of the provision in the Constitution of the United States, and which has been referred to by the gentleman from the county of Philadelphia, (Mr. Martin.) I would do nothing in contravention of that provision; I merely wish that the question should be referred to a committee, that they may inquire whether this convention has the power to act at all in the premises; and if it has the power, whether it would be expedient to act. I am, however, surrounded by many valued friends whose opinions and judgment I appreciate; and it appears that they are unanimous in thinking that I should withdraw it. I, therefore, yield my own judgment to theirs, and, having explained my views, I withdraw the amendment.

Mr. Konigmacher, of Lancaster, thereupon renewed the motion previously made by the gentleman from Chester county, (Mr. Thomas)—but by him withdrawn. Mr. K. referred to the situation of the alms-house of the city and county of Philadelphia, of the inmates of which, he said, he had been informed, about seven-eighths were foreigners. He also alluded



to certain recent and very gross violations of the quarantine law, which had taken place in certain parts of the State of New Jersey; where many foreign paupers had been clandestinely landed, and absolutely without the means of life. Mr. Brown, of Philadelphia, ridiculed the proposition, and professed to be ignorant of any complaints such as had been stated; whereupon Mr. K. withdrew his amendment, and the subject was never again brought under discussion. See *Debates Pennsylvania Convention*, vol. v., p. 441-51.

In November, 1844, Daniel Webster addressed a meeting of the Whigs of Boston, in Faneuil Hall, in which he thus took ground in favor of an alteration of the naturalization laws. See *Niles' Register*, vol. lxxvii., p. 172:—

Fellow-citizens, it would be at this moment a useless task for me to attempt to investigate the causes of this change. It may not be proper to investigate them at all. But why, we may ask, why should two free white States, New York and Pennsylvania, go against us, if they so have done? There can be but one cause, and that so conspicuous and prominent that no one can shut his eyes to it, no one but must deplore its effect. I approach the subject at once, for it is useless to try to keep it back. And I say that in my mind there is a great necessity for a thorough reformation of the naturalization laws. (Cheers, loud and long continued.) The result of the recent elections, in several States, has impressed my mind with one deep and strong conviction; that is, that there is an imperative necessity for reforming the naturalization laws of the United States. The preservation of the government, and consequently the interest of all parties, in my opinion, clearly and strongly demand this. All are willing and desirous, of course, that America should continue to be the safe asylum for the oppressed of all nations. All are willing and desirous that the blessings of a free government should be open to the enjoyment of the worthy and industrious from all countries, who may come hither for the purpose of bettering their circumstances, by the successful employment of their own capital, enterprise, or labor. But it is not unreasonable that the elective franchise should not be exercised by a person of a foreign birth, until after such a length of residence among us, as that he may be supposed to have become, in some good measure, acquainted with our Constitution and laws, our social institutions, and the general interest of the country; and to have become an American in feeling, principle, character, and sympathy, as well as by having established his domicile amongst us.

Those already naturalized have, of course, their rights secured: but I can conceive no reasonable objection to the different provision in regard to future cases. It is absolutely necessary, also, in my judgment, to provide new securities against the abominable frauds, the outrageous, flagrant perjuries which are notoriously perpetrated in all the great cities. There is not the slightest doubt, that in numerous cases different persons vote on the strength of the same set of naturalization papers; there is as little doubt that immense numbers of such papers are obtained by direct perjury; and that these enormous offences multiply and strengthen themselves beyond all power of punishment and restraint by existing provisions. I believe it to be an unquestionable fact that masters of vessels having brought over immigrants from Europe, have, within thirty days of their arrival, seen those persons carried up to the polls, and give their votes for the highest offices in the National and State Governments. Such voters of course exercise no intelligence and indeed no volition of their own. They can know nothing either of

the questions in issue, or of the candidates proposed. They are mere instruments used by unprincipled and wicked men, and made competent instruments only by the accumulation of crime upon crime. Now it seems to me impossible, that every honest man, and every good citizen, every true lover of liberty and the Constitution, every real friend of the country, would not desire to see an end put to these enormous abuses. I avow it, therefore, as my opinion, that it is the duty of us all to endeavor to bring about an efficient reformation of the naturalization laws of the United States. I am well aware, gentlemen, that these sentiments may be misrepresented, and probably will be, in order to excite prejudice in the mind of foreign residents. Should such misrepresentations be made or attempted, I trust to my friends to correct it and expose it. For the sentiments themselves I am ready to take to *myself* the responsibility, and I will only add that what I have now suggested, is just as important to the rights of foreigners, regularly and fairly naturalized among us, as to the rights of native born American citizens. (The whole assembly here united in giving twenty-six tremendous cheers.) The present condition of the country imperatively demands this change. The interest—the real welfare of all parties—the honor of the nation—all require that subordinate and different party questions should be made to yield to this great end. And no man who esteems the prosperity and existence of his country, as of more importance than a fleeting party triumph, will or can hesitate to give in his adherence to these principles. (Nine cheers.)

Gentlemen, there is not a solitary doubt, that if the elections have gone against us it has been through false and fraudulent votes. Pennsylvania, if, as they say, she has given 6,000 for our adversaries—has done so through the basest fraud. Is it not so? And look at New York. In the city there were thrown 60,000 votes, or one vote to every five inhabitants. You know that fairly and honestly, there can be no such thing on earth. (Cheers.) And the great remedy is for us to go directly to the source of true popular power, and to purify the elections. (Twenty-six cheers.) Fellow-citizens, I profess to be a lover of human liberty—especially to be devoted to the grand example of freedom set forth by the republic under which we live. But I profess my heart, my reputation, my pride of character, to be American.

In the New Hampshire Convention, held in 1850, to amend the Constitution of the State, Mr. Cass, a member of the Democratic party, offered the following resolution: “*Resolved*, That an article be inserted in the Constitution, as follows: ‘No one who is bound by the oath of allegiance to any monarchical or foreign power whatever, or who is bound by his religious faith to put down free toleration, shall at any time hold any office of trust or profit in the State.’” This proposition seems to have aimed not only to require aliens, when naturalized, to renounce and abjure all allegiance and subjection to all and every foreign power, *ecclesiastical* as well as civil, but also to exclude native born citizens from office, who acknowledge ecclesiastical allegiance to a foreign power. The motion failed, but Mr. Cass made a speech on the occasion, from which the following extracts are made:

Mr. Cass asked: “Was it safe to elect a man Governor who was sworn to the Pope of Rome, and believed that all Protestants were heretics, and should be persecuted unto death? He would not have it left open, so that persecutors could come in and take the helm of government. He thought it right to put up the bars. Was it ever known that

Catholics gained the power over any people, and got the government into their own hands, that they did not persecute, even unto death, all that were opposed to them? And was it not their religion, though they might be bound by all the oaths that could be imposed on them, that they might be absolved by the Pope? And were they not striving for conquest every where, and to set up their religion of Church and State? \* \* \* Were not nunneries and Catholic schools springing up all around us? And were they not teaching the children that we are all heretics? \* \* \* And should Ireland be free from England to-day, would she sustain a republic? No. Let Ireland be free from England, and the Pope would have the power. And would he sustain a republic? Look to Mexico," &c.

Mr. Richardson, of Hanover, followed Mr. Cass, and spoke against the resolution, but took occasion to have a fling at the Catholics. He said: "It was idle to suppose that a narrow-minded Jesuit should be elevated to office. \* \* \* In this country, with its liberalizing influence, we had no reason to fear any thing from Catholics."

The *United States Magazine and Democratic Review*, of July, 1850, held such language as the following on the subject:

"These European reformers are flocking hither by thousands, bringing with them the pestilent products of the worn-out soil of the Old World—which, it would seem, when ever it falls into labor, produces nothing but monsters. They bring with them a host of extravagant notions of freedom, or a plenty of crude, undigested theories, which are utterly irreconcilable with obedience to laws of our own making, and from a constitution of our own adopting. They come with their heads full of a division of property, to a country where it is already divided in a manner most salutary to the general welfare, by existing laws and institutions, allowing every man an equal chance, and placing no artificial obstructions in the way of any. It is not here that idleness, profligacy and extravagance are shielded from their otherwise inevitable consequences—poverty and contempt—by laws and institutions expressly devised for that purpose. It is not here that property is perpetuated for ages in one family, and that the laboring classes are forever excluded from their share. But it is here that industry, economy, prudence and enterprise receive their due rewards; and by being left to themselves, produce that general diffusion of comfort, as well as that salutary distribution of property, which can never be brought about, or at least perpetuated, by any other means.

"The socialists, however, who are come and coming among us, either from not comprehending that they have got into a new world altogether different from the old, or from a wild and reckless spirit of innovation, are silently making an impression on the people of our great cities, where all the sweepings of the country are gathered into one great mass of ignorance and corruption. They are instilling into them principles at war with society, and have attracted the attention of the several leaders, who begin to nibble at them, and discover evident symptoms of a design to enlist them in their great army of rag-tag and bob-tail, clothed in the many-colored patches of anti-masonry, anti-mailism, abolitionism, socialism, Fourieriteism, St. Simonianism, and heaven only knows what besides."

The reader will bear in mind that the above was written by *democratic* authority. It was uttered five years ago, before the organization of the American party—so called—and before the country had been aroused to the importance of the American movement. Subsequent events have de-

monstrated anew the necessity of a change in our naturalization laws, as well as the equally pressing necessity of *Americanizing* ourselves.

And this feeling is even justified by writers of foreign as well as American journals, as may be seen by the following, taken from the *London and Loyd's Weekly Register*, edited by Douglas Jerrold :

"All things considered, the Know Nothings are the most impressive development of American life. Hitherto America has been a refuge for the outcasts of all nations—the home of all who had fled from debt, from tyranny, from starvation, from justice. It has received all—rejected none. This was a grand experiment, but has only partially succeeded.

Some of the immigrants—especially the Irish—brought mischiefs with them—evil passions and bad habits; and, as all were admitted to public power—to vote at elections—public men had to stoop to their baseness, to get support; and hence, a lower style of public morals became the rule in large towns.

The Know Nothings, who comprise the most intellectual and prosperous men of the American democracy, say this evil must be stayed. Their cry is, 'America for Americans!' And surely this cry is as reasonable as 'Italy for the Italians,' or 'Hungary for the Hungarians.' The new party is a protest against Irish political profligacy, and against Jesuit influence in America. They seek to deprive the immigrant hordes of the means of mischief. Their motto is, 'Protection to all—power exclusive to the American born.'"

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## CHAPTER XL.

### AMERICAN NATIONALITY.

It was the proud boast of the ancient Roman that the watchword, "I am a Roman citizen," would secure him personal respect throughout the world; and so now it may be said, with equal truth, the salutation, "I am an *American* citizen," is the best and safest passport a stranger can have to the yeomanry of foreign lands. But the causes which insure this respect to the American throughout the civilized world, are widely different from those which commanded it for the ancient Roman. It was the dread of the Roman power which secured it for its countrymen; but no such sentiment protects the American abroad. It is not fear of the American Government, but admiration for its institutions, which commands respect. *America* is a land known and admired every where, as that of peace and plenty, of virtue and safety, of freedom and equality, whose people have solved the problem, so long disputed, and proved that man is capable of self-government. It is not regarded as cosmopolitan, but has a distinctive national character of its own, and that is one emi-

nently *American*, made up and formed by its own citizens, which challenges the admiration and respect of all Christendom. It is the land of Constitutional Liberty, where the down-trodden and oppressed of other nations may find a refuge from tyranny, and enjoy the blessing of freedom. In a word,

"The land of the free, and the home of the brave."

It is the land which has already a history filled with heroic deeds, and that is known by the achievements on the field, of its Washington, Jackson, Harrison, Taylor, and Scott, and the vindication of its rights upon the ocean, by Perry, Decatur, Stewart, and others not necessary here to enumerate; which has produced such statesmen as Henry, Franklin, Jefferson, Adams, Hamilton, Jay, Madison, Calhoun, Clay, and Webster, whose names and fame are known the world over; whose Marshall, Story, Kent, Livingston, and Wheaton, have shed a lustre on its legal jurisprudence which commands the homage and admiration of the jurists of the whole world; and whose Franklin, Edwards and Wayland, on mental and moral philosophy, Bancroft and Prescott as historians, Fulton, Fitch, Whitney, Silliman, Morse, and Maury, names which "guarantee the scientific glory of America;" Powers as a sculptor, and Audubon as an ornithologist; Cooper and Irving, as novelists; Bryant, Halleck, Sigourney, &c., as poets, and Webster, as a lexicographer, have not only given promise of its future eminence, but possess sufficient merit to be known and read wherever the English language exists. Its triumphs of intellect and industry are known, and the *American Flag* is honored and respected in all parts of the world as that of a powerful nation of *freemen*. To sum up, *America* has a character of its own, a government unlike and unequalled by any other on the face of the earth, and its people, animated with a true American spirit, are not only every where recognized by their distinct nationality, but, as already stated, can present no higher claim to respect abroad than that of being *American citizens*.

But there are those of native birth among us, who do not hesitate to proclaim that there is not yet, and will not be for ages to come, an American nationality; that we are not a people and have no country; that we are without a national identity, and can be regarded only as mere denizens in the land of our birth, without any more claim to it, or impressing upon the character of its government a distinct, well-understood and recognized nationality, than any horde of wanderers who may choose to squat upon it, and make it their home. It is a relief to have cause to believe, however, that there are, comparatively, few who, to promote political objects of their own, have the reckless audacity to proclaim such an atrocious libel upon the American people. Among these are what may

not improperly be called the American Radicals, who ~~are~~ disciples of the anarchist school of European Infidel Revolutionists, and would, if they had the power, carry out here the principles inculcated by them, instead of following the precepts of Washington, and his compeer of patriots. Within the last year past, it must be confessed, however, a no less leading and influential journal than the New York *Tribune* has denied and repudiated all nationality to our country, by publishing such sentiments as these :—" Principles and not nativities constitute an American. Hugo and Mazzini are better Americans than Douglas and Pettit, because they are better democrats. Applying terms in any other sense than this, nothing is more untrue to the whole spirit and meaning of our history than the maxim '*America for the Americans.*' *Aside from the identity of our national principles, we have no national identity, nor shall we have for centuries.*" Is this true? Who that has an American heart within him will subscribe to such a sentiment, though it has been proclaimed by so distinguished a journalist as Mr. Greeley?

"Breathes there a man with soul so dead,  
Who never to himself hath said,  
This is my own, my native land?  
\* \* \* \* \*  
If such there breathe, go mark him well:  
For him no minstrel raptures swell:  
High though his titles, proud his name,  
Boundless his wealth as wish can claim;  
Despite those titles, power, and pelf,  
The wretch, concentred all in self,  
Living, shall forfeit fair renown,  
And, doubly dying, shall go down  
To the vile dust, from whence he sprung,  
Unwept, unhonored, and unsung."

It was one of the charges of Æchines against Ctesiphon, that, "He who is insensible to that natural affection which should engage his heart to those who are most intimate and near him, can never feel a greater regard to your welfare, (that of the Athenian people,) than to that of strangers;" and he might have well added, that he who is insensible to the ties and associations of his native land, is no more to be trusted by strangers than by his own countrymen. Man's first great duty, next to that which he owes to his Creator, is to his country; and he who is insensible to the associations of birth and of childhood, feels no veneration for the glorious achievements of a noble and patriotic ancestry; and has not admiration sufficient for the government established by them, to claim for it a distinct nationality, possesses neither the heart nor spirit of an American, and does not deserve the honor of the name. The Father of his Country held to no such humiliating and self-degrading doctrine as that

inculcated by the school of modern reformers who affect a patriotism which rises superior to attachment to home and country. In his Farewell Address, that rich legacy of wisdom and instruction to his countrymen, he says: "Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of *American*, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint counsels and joint efforts, of common dangers, sufferings and successes. But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interests; here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole."

In the memorials of Mr. Pownall, who lived eight years in the colonies, from 1753 to 1761, and during that period held successively the offices of Lieutenant Governor of New Jersey, of Governor of Massachusetts, and of Governor of South Carolina, and who in these capacities had every opportunity that could enable him to appreciate the people and their peculiar characteristics, and to form a correct estimate of the resources of the country, not only then descried through the telescope of his far-seeing mind, but predicted the future position, power and glory of America; and if that truly wise man could even a century ago thus regard and speak of our country as a distinct nation, who can now, when all and more than he then predicted has been fully realized, still doubt that we have a nationality, or that the United States of America is one of the known and recognized nations of the earth, whose flag is every where honored and respected, and whose people command the admiration of mankind throughout the civilized world? Read the following revelations then made by Mr. Pownall:—

"North America has advanced, and is every day advancing, to growth of State, with a steady and continually accelerating motion, of which there has never yet been any example in Europe."

"It is young and strong." \* \* \* "Its strength will grow with its years, and it will establish its constitution and perfect adulthood in growth of State. To this greatness of empire it will certainly arise." \* \* \* "America will become the arbitress of the commercial world, and perhaps the mediatrix of peace, and of the political business of the world."

"Whoever knows these people will consider them as animated in this new world, if I may so express it, with the spirit of the new philosophy."

"Here one sees the inhabitants laboring after the plough, or with the spade and hoe,

as though they had not an idea beyond the ground they dwell upon; yet is their mind all the while enlarging all its powers, and their spirit rises as their improvements advance.

"The independence of America is fixed as fate. She is mistress of her own fortune; knows that she is so, and will actuate that power which she feels, both so as to establish her own system *and to change the system of Europe.*

"Those sovereigns of Europe who have been led by the office system and worldly wisdom of their ministers—who, seeing things in those lights, have despised the unfashioned, awkward youth of America—when they shall find the system of this new empire *not only obstructing but superseding the old systems of Europe,* and crossing upon the effects of all their settled maxims and accustomed measures, they will call upon these their ministers and wise men, '*Come, curse me this people, for they are too mighty for me;*' their statesmen will be dumb; but the spirit of truth will answer, '*How shall I curse whom God hath not cursed?*'

"America will come to market in its own shipping, and will claim the ocean as common—will claim a navigation restrained by no laws but the law of nations, reformed as the rising crisis requires.

"America will seem every day to approach nearer and nearer to Europe. When the alarm which the idea of going to a strange and distant country gives to the homely notions of a European manufacturer or peasant shall be thus worn out, a thousand repeated repulsive feelings respecting their present home, a thousand attractive motives respecting the settlement which they will look to in America, will raise a spirit of adventure, and become the irresistible cause of an almost *general immigration to that new world.*

"Whether the islands in those parts called the West Indies are naturally parts of this North American communion, is a question, in the detail of it, of curious speculation, but of no doubt as to the fact."

Then, giving way to the enthusiasm of his prophetic spirit, he addresses himself in direct language to America:—

"A nation to whom all nations will come; a power whom all powers of Europe will court to civil and commercial alliances; a people to whom the remnants of all ruined people will fly; whom the oppressed and injured of every nation will seek for refuge," he exclaims, "**ACTUATE YOUR SOVEREIGNTY, EXERCISE THE POWERS AND DUTIES OF YOUR THRONE.**"

Arise! ascend thy lofty seat,  
Be clothed with thy strength—  
Lift up on high a standard to the nations!!!

Let those among us who, by their conduct, prove themselves unworthy of the country which gave them birth, deny us a nationality as much as they will, it is still no less true, and acknowledged to be so by those in foreign lands, that there is such a thing as an *American Nationality*, of the truth of which assertion the following extract from an able article in the *Westminster Review* for April last, affords abundant proof:—

"Henceforward, it is no longer England, but the *North American Republic* that has become the pole-star to which, from all sides, the eye of struggling nations turns. . . . There are those who fancy that under mere democracy, energetic diplomacy and war-



like success are impossible; let us for a moment attend to the facts concerning the United States. . . . They nobly earned their independence; they assumed the aggressive against England; they made a plain declaration of war on France if payments conceded to be due the United States were not paid by a certain near day; since these there have been the war of Texas and the Mexican war, and in the Mexican war one knows not what is most to be admired; the facility with which an army of volunteers submitted to discipline; the perfection of their weapons—new inventions of America—handled with a skill previously unknown; the goodness of their commissariat, in a wild and vast country; or the flexibility of their mechanical adaptations as to reporting, printing and communicating homeward. . . . For fifty years past, the merchant ships of the United States have notoriously been far better built than those of Great Britain. . . . No one can pretend that the United States does not conduct its diplomacy with consummate energy and success. This is brought about mainly by the influence of the Senate on foreign affairs. We have no corresponding organ. . . . We imagine *three* principal enactments necessary: 1, that all new peerages shall be for life only; 2, that no new peer shall be created without a recommendatory vote from the Commons; 3, that the Queen shall have the right of permitting every minister, during his tenure of office, to set and speak in the Upper House, but without a vote. . . . All Reformers will do well to inscribe on their flag, that Reform must take *the direction of America, not of France.*”

History vindicates the truth of these remarks; and the native born American, who is so deficient in devotion to, and pride of, country as to be insensible to its claim to a nationality, may well have his patriotism doubted, and be regarded with suspicion. “There are few things that contribute more decidedly to a *nation's strength* than a *national pride*,” said old Hezekiah Niles in his *Register*, as long ago as 1817, and why so? Because, said he, “it appears to me, however, that the operation of this principle was more powerful almost every where than it was in the United States—before the late war; notwithstanding the *extremely modest* accusations of our ‘British masters’ to the contrary; and even yet, I cannot believe that we are possessed of our full, just and legitimate share of it. But we are improving every day—our people begin to feel and to know that they are *Americans* and *republicans*; and the time is fast approaching when they will really be so, and glory in it. Blessed be those who, by their wisdom or valor, by counsel or by the sword, have dissipated our prejudices, or ‘hewed a path to fame,’ and thus raised up so strong a rampart to defend the liberties of my country.”

The foundation of patriotism, originating in the relations and intercourse of domestic life, has ever been the faith and belief of the wisest and best men. In the New York Convention which ratified the Federal Constitution, Alexander Hamilton used the following language:—

“There are certain social principles in human nature, from which we may derive the most solid conclusions with respect to the conduct of individuals and communities. *We love our families more than our neighbors; our neighbors more than our countrymen in general.* The human affections, like the solar heat, lose their intensity as

they depart from the centre; and become languid in proportion to the expansion of the circle in which they act."

And the same great statesman had a proper appreciation of the danger to republican institutions from foreign influences, by the introduction of men, money or manners from abroad, and in referring to the subject, gave the following illustration from history:—

"The government established by Lycurgus remained in vigor 500 years, until a thirst of empire tempted the Spartans to entertain *foreign* troops, and introduce Persian gold to maintain them; then the institutions of Lycurgus fell at once, and avarice and luxury succeeded."

Such was the spirit which animated Henry Clay. In a speech delivered by him in the Senate, Feb. 7, 1839, he said: "The Searcher of all hearts knows that every pulsation of mind beats high and strong in the cause of civil liberty. Wherever it is safe and practicable, I desire to see every portion of the human family in the enjoyment of it. *But I prefer the liberty of my country to that of any other people, and the liberty of my own race to that of any other.*"

Archbishop Hughes, in one of his controversial letters with Senator Brooks, expresses a similar sentiment, though applying it in a different manner. "I would not," says he, "exchange the bright memories of my early boyhood in another land, and beneath another sky, for those of any other man living, no matter where he was born." This is, in truth, the feeling and spirit which animates every right-minded man. Love for our own race and our native land is but in conformity with the divine instincts of nature. It is, as has been truly observed by an unknown writer, interwoven with the fibres of the human heart—it is paramount to distance, time and circumstances—it is beyond the reach of politics and philosophy—it is the one grand and powerful emotion which colors every thought and directs every action.

But, say the repudiators of American nationality, "principles and not nativities constitute an American." Grant that principles are essential to constitute one in the sense here used. If love of home, country and race, exercise so controlling an influence over human action, as is universally conceded, can those coming to America be regarded as exceptions? It is but reasonable to suppose that they, too, are susceptible of home influence, that they still love their native land, and cherish the doctrines taught them by their forefathers, in domestic matters—in agriculture, commerce, religion—and *if so, why not also in politics and the science of government?*

In still further answer, it may be said, that principles alone do not constitute government. "Governments, like clocks, go from the motion men give them," says William Penn, in the Preface to the Constitution

of Pennsylvania; "and as governments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men than men upon governments. Let men be good and the government cannot be bad. If it be evil, they will cure it." In the language of Sir William Jones, *men*, high-minded men, constitute a State:—

" Not high rais'd battlements or labored mound,  
Thick wall or moated gate ;  
Not cities proud, with spires and turrets crown'd :  
Not bays and broad-arm'd ports,  
Where, laughing at the storm, rich navies ride ;  
Not starr'd and spangled courts,  
Where low-brow'd baseness wafts perfume to pride.  
No—*MEN*, high-minded *MEN*,  
\* \* \* \* \*  
Men who their duties know,  
But know their rights, and knowing dare maintain."

Race, kin and kindred, training and tradition, devotion to country, knowledge of its institutions, history, trials, progress and achievements, an aggregation of men that have a country and love it, feel that they have a nationality and place a value upon it, have ancestral graves and ancestral toils to look and dwell upon, an ancestral spirit to be inspired with, precepts to respect, examples to imitate, and an inheritance to glory in, as well as a present blessing to be enjoyed—all these are requisites to make an American and constitute an American nationality. As has been beautifully observed by Robert T. Conrad, in a brilliant address, delivered before the Literary Societies of Pennsylvania College, in 1852, "the dull devotion of enforced allegiance or unfelt duty may shed a cold, lunar light over a land, but it is the heat of the solar heart alone that can vivify and invigorate, can render feebleness invincible, and make, what would else be a polar desolation, a scene of beauty—a glory and a joy."

It is the *American*, who feels that he has a name which "exalts the just pride of patriotism," that yields the first fruits of his genius and his heart to his country. "He loves her," continues Judge Conrad, in the admirable address already quoted, "with the gushing fulness and unselfish devotion of the heart's first and purest love. How could he otherwise? Her soil claims a parent's right to that love; and were it churlish as winter, could he love it less than the Switzer loves his cliffs? Were it torrid as Arabia, could he cherish it less than the Bedouin his sands? But the grandeur and beauty of the boon land of his birth, where lavish Nature seems to have gathered her wonders as for a race of free giants—the

cloistered aisles of her sublime and solemn forests—the cataract voices that thunder among her hills—the glorious rivers that sweep, with queenly magnificence, among valleys the loveliest that zephyr visits—how could these be his own, and be unbeloved? And then her annals, rich in the unrivalled triumphs of a calm and Christian heroism—her valor, her virtues, but more than all, her liberty, calm and crimeless, lofty and self-restrained, that lifts her above all ancient or modern comparison—the morning star of the nations! Why, he were duller than the dullest clod of her valleys, did not his heart swell with exulting gratitude to the God that had made such a land, and made him a child upon its bosom. It is wise, therefore, and well, that he loves his native land, and loves it thus; not with a cold sense of filial duty merely—the trickling of an icicle patriotism—but with a full and fiery passion; that regards one life as too poor an offering for such a country, yet would give it, freely, as the sun gives its light or the heaven its dew—would pour out his young, warm blood exultingly in the battle, and bless each sacrificial drop as it bubbled forth. Oh, more than mountains and rivers, than wealth and prowess, than greatness and splendor, is this spirit the *true* glory of our land! And this spirit, let me add, is no idle dream, no lofty fiction. It is a presence and a reality; it lives and moves and has its being in every pulsation of the mighty heart of our country: and should the shadow darken and the peril come, it will start forth mightier than any mere throbless physical power, to save and to achieve. It is this passion of patriotism that can alone make a people free and happy.”

*America for Americans*, is a demand not based upon narrow sectarianisms, or mere party predilections. It is no new doctrine; it has been avowed and maintained in all ages, and in all countries, so long as the people remained true to their country, and had a respect for and pride in their nationality; it rests upon the love of home and of country, and involves not only a natural right but a solemn and imperative duty which birth-right alone can impose. Who that will not adopt the language of the poet, and cordially agree that—

“There’s not a spot on this wide peopled earth  
So dear to the heart as the land of our birth;  
And the home of our childhood! the beautiful spot,  
Which memory retains when all else is forgot.”

Why, then, should it be deemed illiberal, unkind and unjust in Americans to feel a devotion to their country, and an interest in its institutions which induces a desire on their part to rule America? Have not other free nations claimed and exercised the same prerogative? And was it not only when they became too degenerate and corrupt to do so that they

lost their birthright and with it their nationality? Did not Daniel O'Connell raise the talismanic cry among his countrymen, of *Ireland for the Irish*? Yet no one ever charged him on that account as a narrow-minded, illiberal bigot; on the contrary, he was universally extolled as sensible and patriotic, and, in America at least, there was but one response, and that was, that it was but a just and natural claim, which ought not to be denied by Great Britain, that "none but Irishmen should rule Ireland." If the sentiment was correct, and Irishmen in this country all united in expressing it, why should they now find fault with it when applied to America?

The Americans are but discharging a duty they owe to the land of their birth, equally due to the memory of their revolutionary ancestors and to their own posterity, when they set to work to purify the body-politic from disease which threatens destruction to the country, and to the institutions committed to their guardianship by their forefathers. What is the malady that afflicts us?—what the evil they have set about to remedy? In one generation we have attained a growth exceeding that of any other nation; our flag floats in every sea, and is every where honored and respected; while our institutions are the theme of admiration throughout the civilized world; and yet we are obliged to struggle to maintain our distinct nationality at home. Millions of the oppressed in other lands resort hither to enjoy the blessings of freedom, and, in our contact with those who thus seek refuge from tyranny, our system has been inoculated with the decayed matter of the worn out, corrupt and dying systems of the old world, which renders it necessary to purify ourselves and lop off the fungus. And are Americans to be blamed for this? Surely no one can assert the affirmative and satisfactorily maintain it. Say what we will, there exists such an evil in the country. The people know and feel it. The gross abuses of the hospitality extended to those of foreign birth, and the outrageous violations of our laws, and infringements upon our rights, by foreigners coming among us—incited thereto, it must be, with sorrow and shame, confessed, by demagogues and knavish politicians in our own country—has been for a long while an alarming and growing evil in our elections, until at length it has become intolerable.

It is notorious that the grossest frauds have been practiced on our naturalization laws, and that thousands and tens of thousands have every year deposited votes in the ballot box, who could not only not read them, and knew nothing of the nature of the business in which they were engaged, but who had not been six months in the country, and, in many cases, hardly six days. By such influences, by the destruction of ballot boxes, and by forcibly preventing native born citizens from coming to the polls, the foreign element has at times carried the elections in our cities and towns, and thereby controlled States and the Union! The

power thus wielded has led to the most disgraceful subserviency to the foreign element on the part of our native demagogues, and wholesale bargaining and traffic has been the result.

It is in the horror and disgust of such a state of things that the American movement has had its origin, and that has given a healthful tone to public sentiment in regard to the evil under which the country has labored. The people have become aroused to the danger, and have accordingly determined to guard against it by placing the power of ruling only into the hands of those in whose devotion to the country they feel they may have confidence.

The right of Americans to prescribe terms of admission into the country, as well as to prescribe terms to be admitted to citizenship, or to refuse either or both, is a power which has been and continues to be exercised by all governments. It was so among the Jews, the Greeks and the Romans, in ancient times, and continues so in England, France and all other countries of modern times; and it is so, in a general sense, in the United States. Congress has control over the subject. The Constitution has confided to it the power of passing laws regulating naturalization, and if it should so change the law as to require twenty-one years' residence before citizenship could be conferred, or should wholly repeal all laws on the subject, without providing any new process by which aliens could be made citizens, no one could have any well-founded ground of complaint.

To become a citizen, is not a right which an alien can command, but a privilege which may be conceded and afforded, or withheld and refused; and, so long as no attempt be made to interfere with any existing right of citizenship, and that is not at all likely ever to be attempted, there can be nothing to justify the cry of persecution. Those who have acquired the rights and privileges of citizens are entirely beyond the reach of legislation; they are invested with all the dignity of citizenship, which no power except they, by their own conduct, can take from them. Their rights are sacred, and cannot be infringed. The alteration or entire repeal of the naturalization laws cannot, therefore, affect the rights and privileges of naturalized citizens. No war is made against them. Why, then, should naturalized citizens feel different in regard to the matter than native born citizens? Being sworn citizens of the United States, it does not accord with their obligations to regard themselves as a distinct class, and to feel aggrieved at legislation as a reflection upon them, when it is intended for the equal benefit of all who have a claim to American citizenship. They have no right, as good citizens, to regard themselves in any other light than Americans, and they lessen the dignity of citizenship by thinking of themselves as aliens still, and bestow-

ing all their care and sympathy upon those of kindred birth who do not enjoy the rights of citizenship.

The manner, in which Congress shall exercise the power given to it by the Constitution, in relation to the naturalization of aliens, should have no other object in view than the public good; and, if circumstances which have transpired, and the experience of the past, unite in dictating the propriety of lengthening the period of residence preliminary to the investiture of the rights of citizenship, or the entire cessation of conferring those rights upon those who shall hereafter migrate into the country, it is the duty, as well as it should be deemed the pleasure, of naturalized as well as native citizens, to sustain and uphold such a policy. It is a fallacy to argue that an extension of the period beyond that now required to become a citizen, or an entire refusal to naturalize, would be a proscription of men on account of "the accident of birth." As well might the unfortunate youth who struggles against the adverse circumstances of poverty, claim as a right to appropriate to himself a portion of the estate of his rich neighbor, and, on being denied his claim, arraign him for proscribing him on account of "the accident of birth." Place of birth may be an accident; it undoubtedly is so, humanly speaking; but so is, in the same sense, being born at all, or of being born under favorable instead of adverse circumstances; and yet these accidents constantly affect human rights and privileges, and the common sense of mankind admits the propriety of their doing so, nor has it ever yet called in question the wisdom and beneficence of the Creator, in so ordaining the affairs of man.

The time and circumstances of birth and death are quite as much accidents as the place of birth, and yet these are the great controllers of the rights of property. Why, then, may not place of birth also, in a measure, control the rights of citizenship? None but Scotch Socialists, French Red Republicans, German Rationalists, or American Clotztes, have ever yet denounced the laws controlling property, and which allow the accidents of birth to fall so frequently between men and fortune; and why then complain about "proscribing men on account of the accident of birth?" There is nothing in the rights of citizenship to exempt it from the influence of accidents which constantly affect other rights; and the assumed fact, that there is an inherent right in every man to a full participation in the government of every country in which he may choose to take up his residence, has never been either recognized or acknowledged by any government on earth, and cannot be conceded by our own, without involving the admission that our whole system is founded upon erroneous principles, and needs reformation.

Our Constitution contains many restrictions upon the rights of the people, though its preamble declares it to have been their own act. It

requires the President to be a native born citizen; or one who was a citizen at the time of its adoption, and to be of a certain age; and, annexing these qualifications, the people cannot disregard them and elect whom they choose. It requires, also, certain qualifications as pre-requisites to hold a seat in the Senate or House of Representatives, which the people cannot disregard in their exercise of the elective franchise. So in regard to the qualifications of electors. These are prescribed by the State Constitutions, and consist in a certain period of residence in the State, county, city, borough, township, or precinct, payment of tax, &c., all of which, if the argument now advanced be correct, would have to be abolished, to relieve our system from the imputation of proscribing men on account of the accident of birth, residence, age, &c. Carrying the argument out, where would it lead to? According to its theory, all restrictions would be proscriptive, and there could not consistently be a condition of any kind annexed to enable an alien to become a citizen. Common sense revolts at a doctrine which would lead to such conclusions, and its utter absurdity is made manifest by even those who arraign the American movement as proscriptive in its character.

The admission of foreigners to citizenship is not an inherent right they can claim *nolens volens*, but involves a question of expediency which it is in the power of Congress to determine. It may abolish all naturalization laws, or it may annex such conditions to become a citizen as the public good may seem to demand; and, however onerous these may be made, they cannot be justly denounced as proscriptive in their character. If it can, as it has, fix a period of five years' residence to enable an alien to become a citizen, it can, if the good of the country demands it, extend the period to twenty-one years, or withdraw the power and authority from courts to naturalize at all. Grant the power to impose a condition of any kind, and no one denies that, and the whole argument of those who assail the American theory as proscriptive falls to the ground. Thus a Democratic meeting, held this summer in Daviess county, Kentucky, unintentionally and unconsciously surrendered the whole argument against the movement, and conceded the expediency and propriety of it, by adopting the following resolve, in substance, that "the foreigner cannot consistently with reason and right be deprived of a voice in our government, and at the same time be taxed to support the same," but that "*the naturalization laws should be so altered as to lengthen his time of probation, that he may become more thoroughly imbued with the principles and spirit of our institutions!*" Such an admission concedes the whole argument, and contradicts the charge of proscription, leaving but one question to be determined, and that is, is any extension of time long enough, and, if so, to what period should it be extended? As to the question of taxing foreigners without conferring upon them the right of



voting, the argument used by the Daviess county Democracy is plausible, but is nevertheless a sophism which will not bear the test of scrutiny. If it be sound, then foreigners ought not to be taxed while they are here on probation, and should not be called on to contribute to the support of government until they have a voice in its management; and yet they are taxed as soon as they take up a permanent residence in a State, and it is right and proper that they should be. And why? Because there exists no necessary connection between taxation and the right of suffrage. The correct idea of taxation is, that it is the price paid for the protection afforded by government to person and property. Hence the property of widows, maids and minors is taxed; and why ought that of aliens, who enjoy the same protection, be exempt?

There is then nothing in the Constitution obligating Congress to any specific mode of action with regard to foreigners, nor any thing in Americanism which implies or conveys personal or invidious reproach against any citizen, whether of foreign or native birth. No such distinctions are sought to be created. The movement only recognizes, and seeks to enforce, such distinctions as the law of self-preservation, and the true principles of our government, have already established. It has been argued that a policy carried out, such as Americans now seek to establish, would create in our country a class corresponding with that of the Helots of ancient Sparta—a degraded caste whose presence would be dangerous to society. This is, however, a far-fetched argument, and entitled to no great consideration. The history of civilized States negatives the assumption—reason repudiates it—and our Constitution which requires a naturalization law at all denies it. Our own experience proves to us that the denial of the right of suffrage does not necessarily produce such a class. It is not so in the District of Columbia, whose inhabitants have not the right of voting for President.

Nor are the unnaturalized foreigners in our midst, whilst serving their probation, more degraded than after their naturalization. There exists not the least analogy between their condition and that of the Helots of Sparta. They are in the enjoyment of all the rights of property, and the protection of their persons, character, privileges and freedom, with no mark of discrimination against them, but as to the right of suffrage, and that voluntarily assumed by them. In determining to change their homes, they had to decide between their native lands, where they are not allowed to vote, (for neither the Irish, German, Frenchman, nor Scotchman, can be said to enjoy the elective franchise,) and our own country, where they may, after a residence of a certain period, or may not vote, which depends upon the policy pursued by the government. They come with a full knowledge that their admission to full citizenship depends upon the action and policy of our government; and to say that they

will become more degraded here, if the right of suffrage be withheld from them, than they were in their native land, though they never enjoyed it there, is simply to utter a ridiculous absurdity which is unsustained by history, and contradicted by our own personal experience. Washington, Franklin, Sherman, Jay, Hamilton, Madison, and the other framers of the Constitution, could have had no such fears, or they would not have inserted a provision in the Constitution requiring aliens to be naturalized at all. Had they supposed that there lurked danger in requiring foreigners to remain some years on probation before becoming citizens, they would have provided for their immediate admission to all the rights and privileges of the government.

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## CHAPTER XLI.

### CULTIVATION OF AMERICAN FEELING AND SENTIMENT.

ONE of the political parties of the day has incorporated in its platform and principles of organization an article, recognizing and declaring, as of the utmost importance, the cultivation and development of an intense American feeling; of a passionate attachment to our country, its history and its institutions; of an admiration for the purer days of our national existence; of a veneration for the heroism that precipitated our revolution, and an emulation of the virtue, wisdom and patriotism that framed our Constitution and first successfully applied its provisions; and that recognition and declaration is no less creditable to the party which has made it a part of its creed, than it is worthy of being emulated by all other political organizations professing to follow the precepts of the illustrious founders of our government.

It is undoubtedly true, as a late address of the American party of Georgia sets forth, that, "as we recede from the revolutionary day, the example of the revolution becomes less and less influential. We are prone to undervalue the principles in which that great event originated, the valor that achieved, and the sacrifices that consecrated it. The stern virtues of that glorious era are held too slow for this progressive age. The simplicity and purity of our fathers are ridiculed as weakness or denounced as fanaticism, and the republic which they constructed in blood and baptized in tears, is considered by many as illy adapted to the wants, and a reproach to the illumination of this generation. The maxims of Washington have lost much of their authority as rules of political con-

duct; and only a few months since an impudent foreigner, a pauper by concession and a guest by charity, dared to arraign *even him*, the revered of all nations, at the bar of American opinion, for ignorance and folly. And the nations of the earth saw with amazement that some were found base enough and weak enough to countenance the charge."

Nor is this all. Exposed to every disease or contagion, moral and physical, which originates in a foreign atmosphere, and filled with foreigners who have no sympathy for the conservative elements in our Constitution, cherish no American feeling, entertain no attachment to our country, its history and institutions, and instead of admiring the purer days of our national existence, venerating the heroism of the revolution, and emulating the wisdom, virtue, and patriotism of the founders of our government, do not conceal their contempt for all, how can it be otherwise than that our country needs the faithful devotion and services of all who would preserve the Constitution and perpetuate the Union? When there are thousands of those of foreign birth in our midst, followers and disciples of Paine, Heine, and other infidel writers, who concert together, and, in an organized form, seek to secure the adoption of measures which would inevitably destroy our system of government, and be a warfare against the Christian religion, it would assuredly seem to be high time that the descendants of the sires of 1776 should make some effort to inspire reverence for historic names and respect for revolutionary virtue, to reinstate the authority of the framers of our government, and establish anew their precepts and examples in the hearts of the people. When these men publicly proclaim that they "hold the Sabbath laws, *Thanksgiving days, prayers in Congress and Legislatures, the oaths upon the Bible, the introduction of the Bible into the free schools, the exclusion of atheists from legal acts, &c., as an open violation of human rights as well as of the Constitution, and demand their removal;*" and when others, also of foreign birth, openly threaten that "year by year the Irish are becoming more and more powerful in America," and that when "the propitious time will come, they mean to use the Americans for their own purposes;"—when these things are openly and boldly avowed, it becomes the duty of all true Americans to revert to first principles, and remember those taught and practiced by their revolutionary ancestors, and to re-study the principles and precepts of the founders of the republic, with which those now promulgated by the foreigners among us are in such strange and startling contrast.

Instead of following the teachings of Heine, proclaiming that "there can be no true freedom until Christianity is bloodily abolished," and engaging in the persecution of Christians with ends in view like those of Diocletian, the sages of the American revolution on every and all proper occasions made a public acknowledgment of that Almighty Being, who

rules over the Councils of Nations, conducts the affairs of men; and in every respect by which we have advanced to the character of an independent nation, has distinguished us by some token of providential agency. They had studied history, and were not so deficient in wisdom as not to say, with Oliver Cromwell, "if any man thinks that the interests of these nations and the interests of Christianity, are two separate and distinct things, I wish my soul may never enter into his secret," and we accordingly find that at the second session of the meeting of the Continental Congress, in Philadelphia, in 1774, it was resolved "that the Rev. Mr. Duche be desired to open the Congress to-morrow morning with prayer, at the Carpenter's Hall," and the practice was continued during the entire revolution.

In Thatcher's *Military Journal*—a book very difficult to get hold of—under date of December, 1777, is found a note containing the identical "first prayer in Congress." The scene has been made the subject of an engraving, in which Mr. Duche is the central figure, and it graces many parlors at this day. The prayer was as follows :

"O Lord, our Heavenly Father, high and mighty King of kings, and Lord of lords, who dost from thy throne behold all the dwellers on earth, and reignest with power supreme and uncontrolled over all kingdoms, empires and governments, look down in mercy, we beseech thee, on these American States, who have fled to thee from the rod of the oppressor, and thrown themselves on thy gracious protection, desiring to be henceforth dependent only on thee ; to thee have they appealed for the righteousness of their cause ; to thee do they now look up for that countenance and support which thou alone canst give ; take them, therefore, heavenly Father, under thy nurturing care ; give them wisdom in council, and valor in the field ; defeat the malicious designs of our cruel adversaries ; convince *them* of the unrighteousness of their cause ; and if they will still persist in their sanguinary purpose, O ! let the voice of thine own unerring justice, sounding in their hearts, constrain them to drop the weapons of war from their unnerved hands in the day of battle. Be thou present, O God of wisdom, and direct the councils of this honorable assembly ; enable them to settle things on the best and surest foundation, that the scene of blood may be speedily closed, that order, harmony and peace may be effectually restored ;—and truth and justice, religion and piety, prevail and flourish amongst thy people. Preserve the health of their bodies and the vigor of their minds ; shower down on *them* and the *millions* they here represent, such temporal blessings as thou seest expedient for them in this world, and crown them with everlasting glory in the world to come. All this we ask in the name and through the merits of Jesus Christ, thy Son and our Saviour. Amen !"

And by a reference to the *Madison Papers*, containing the debates of

the Convention which framed the Constitution, there will be found the following speech made by Benjamin Franklin :

.. " *Mr. President*.:—The small progress we have made after four or five weeks' close attendance and continual reasonings with each other—our different sentiments on almost every question, several of the last producing as many noes as ayes—is, methinks, a melancholy proof of the imperfection of the human understanding. We, indeed, seem to feel our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of government, and examined the different forms of those republics which, having been formed with the seeds of their own dissolution, now no longer exist. And we have viewed modern States all round Europe, but find none of their Constitutions suitable to our circumstances.

" In this situation, of this assembly, groping, as it were, in the dark, to find political truth, and scarce able to distinguish it when presented to us, how has it happened, sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the contest with Great Britain, when we were sensible of danger, we had daily prayer in this room for the divine protection. Our prayers, sir, were heard, and they were most graciously answered. All of us who were engaged in the struggle, must have observed frequent instances of a superintending providence in our favor. To that kind providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful friend? Or, do we imagine that we no longer need his assistance? I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that *God governs the affairs of men*. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid?

" We have been assured, sir, in the sacred writings, that 'except the Lord build the house, they labor in vain that build it.' I firmly believe this; and I also believe that without his concurring aid we shall succeed, in this political building, no better than the builders of Babel. We shall be divided by our little partial local interests; our projects will be confounded; and we ourselves shall become a reproach and by-word down to future ages. And, what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war and conquest. I therefore beg leave to move that, henceforth, prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this assembly every morning before we proceed to business, and that one or more of the clergy of this city be requested to officiate in the service."

And there were these among the statesmen of that day who, though the champions of religious as well as civil liberty, and opposed to the establishment of any religion by law, did yet not hesitate to express their regret that there was no provision inserted in the Constitution, acknowledging the existence of God, and dependence upon Him for the successful establishment and administration of the government. Luther Martin, a member of the Convention, thus refers to the subject in his address to the Maryland Legislature. *See Elliott's Debates, vol. i., p. 385:—*

The part of the system which provides that no religious test shall ever be required as a qualification to any office or public trust under the United States, was adopted by a great majority of the Convention, and without much debate. However, there were some members so unfashionable as to think that a belief of the existence of a Deity, and of a state of future rewards and punishments, would be some security for the good conduct of our rulers, and that, in a Christian country, it would be at least decent to hold out some distinction between the professors of Christianity and downright infidelity or paganism.

In the report of the Massachusetts Convention which adopted the Constitution, we find the following note in relation to this subject:—

"In the conversation on Thursday, on the sixth article, which provides that 'no religious test shall ever be required as a qualification to any office,' &c., several gentlemen urged that it was a departure from the principles of our forefathers, who came here for the preservation of their religion; and that it would admit deists, atheists, &c., into the general government; and, people being apt to imitate the examples of the court, these principles would be disseminated, and, of course, a corruption of morals ensue. Gentlemen on the other side applauded the liberality of the clause, and represented, in striking colors, the impropriety, and almost impiety, of the requisition of a test, as practiced in Great Britain and elsewhere." *Elliott's Debates, vol. ii., p. 117.*

Col. Jones (of Bristol) "thought, that the rulers ought to believe in God or Christ, and that, however a test may be prostituted in England, yet he thought, if our public men were to be those who had a good standing in the church, it would be happy for the United States, and that a person could not be a good man without being a good Christian." *Ibid., 119.*

In the Connecticut Convention, Oliver Wolcott said he could "not see the necessity for such a test as some gentlemen contended for. The Constitution enjoins an oath upon all the officers of the United States. This is a direct appeal to that God who is the avenger of perjury. Such an appeal to Him is a full acknowledgment of His being and providence. An acknowledgment of these great truths is all the gentlemen contend for." *Ibid., 210.* In the North Carolina Convention, Mr. Abbott said that many suppose that "if there be no religious test required, pagans, deists and Mahometans might obtain offices," and that they desired to know "how and by whom they are to be sworn." Mr. Iredell, in reply, said "it is never to be supposed that the people of America will trust their dearest rights to persons who have no religion at all, or a religion materially

different from their own." \* \* \* "According to the modern definition of an oath, it is considered a 'solemn appeal to the Supreme Being, for the truth of what is said, by a person who believes in the existence of a Supreme Being and in a future state of rewards and punishments, according to that form which will bind his conscience most.'" Other remarks of a similar character might be quoted, but those already given are sufficient to show the contrast of the views of the founders of the government on the subject, compared with those now proclaimed by thousands of those of the present day who are disciples of Heine and other European revolutionary leaders.

George Washington, deeply imbued with religious sentiments and feelings, availed himself of all proper occasions to acknowledge dependence upon God, and manifest an appreciation of the responsibility he owed to Him. When Congress invited him to an audience at the close of the Revolution, on the 26th of August, 1783, he closed his speech as follows:—

"Perhaps, sir, no occasion may offer more suitable, than the present to express my humble thanks to God, and my grateful acknowledgments to my countrymen, for the great and uniform support I have received in every vicissitude of fortune, and for the many distinguished honors which Congress have been pleased to confer upon me in the course of the war."

And when he subsequently appeared before Congress, Dec. 23, 1783, to resign as Commander-in-Chief, he again thus expressed himself:

"I consider it an indispensable duty to close this last act of my official life by commending the interests of our dearest country to the protection of Almighty God, and those who have the superintendence of them to his holy keeping."

To which part of his address, Thomas Mifflin, the President of Congress, in the name of that body, responded as follows:

"We join you in commending the interests of our dearest country to the protection of Almighty God, beseeching him to dispose the hearts and minds of its citizens to improve the opportunity afforded them of becoming a happy and respectable nation."

After the adoption of the Constitution, and his election to the Presidency, Washington again, in his Inaugural Address, thus manifested his dependence on the Almighty Being to whom he rendered such fervent thanks at the close of the war:

"Such being the impressions under which I have, in obedience to the public summons, repaired to the present station, it would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being who rules over the universe; who presides in the councils of nations; and whose providential aid can supply every human defect; that his benediction may consecrate to the liberties and happiness of the people of the United States, a government instituted by themselves for the essential purposes, and may enable every instrument employed in its administration, to execute with suc-

cess the functions allotted to his charge. In tendering this homage to the Great Author of every public and private good, I assure myself that it expresses your sentiments not less than my own; nor those of my fellow-citizens at large less than either. No people can be bound to acknowledge and adore the invisible hand which conducts the affairs of men, more than the people of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency. And in the important revolution just accomplished in the system of their united government, the tranquil deliberations and voluntary consent of so many distinct communities, from which the event has resulted, cannot be compared with the means by which most governments have been established, without some return of pious gratitude, along with an humble anticipation of the future blessings which the past seems to presage. These reflections, arising out of the present crises, have forced themselves too strongly on my mind to be suppressed. You will join me, I trust, in thinking that there are none under the influence of which the proceedings of a new and free government can more auspiciously commence. \* \* \*

"There is no truth more thoroughly established, than that there exists in the economy and course of nature, an indissoluble union between virtue and happiness; between duty and advantage; between the generous maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and felicity: since we ought to be no less persuaded that the propitious smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right, which Heaven itself has ordained: and since the preservation of the sacred fire of liberty, and the destiny of the republican model of government, are justly considered as *deeply*, perhaps as *finally*, staked on the experiment entrusted to the hands of the American people."

To which remarks, the Vice President, in the name of the Senate, thus responded:—

When we contemplate the coincidence of circumstances, and wonderful combination of causes, which gradually prepared the people of this country for independence: when we contemplate the rise, progress, and termination of the late war, which gave them a name among the nations of the earth; we are, with you, unavoidably led to acknowledge and adore the Great Arbiter of the universe, by whom empires rise and fall.

And the Speaker of the House of Representatives replied as follows, on the part of that body:—

We feel with you the strongest obligations to adore the invisible hand which has led the American people through so many difficulties, to cherish a conscious responsibility for the destiny of republican liberty; and to seek the only sure means of preserving and recommending the precious deposit in a system of legislation founded on the principles of an honest policy, and directed by the spirit of a diffusive patriotism.

In his Farewell Address, Washington again thus admonishes his countrymen:—

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness—these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their



connections with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

\* \* \* \* \*

"Observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be, that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?"

John Adams, in his inaugural address, enumerates the "veneration for the religion of a people, who profess and call themselves Christians, and a fixed resolution to consider a decent respect for Christianity" as "among the best recommendations for public service;" and Thomas Jefferson, in his first inaugural address, in summing up the requisites of a good government, enumerates "honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling providence, which, by all its dispensations, proves that it delights in the happiness of man here, and his greater happiness hereafter."

James Madison closed his first inaugural thus: "But the source to which I look for the aids which alone can supply my deficiencies, is in the well-tried intelligence and virtue of my fellow-citizens, &c. In these, my confidence will, under every difficulty, be best placed, next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being, whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising republic, and to whom we are bound to address our devout gratitude for the past, as well as our fervent supplications and best hopes for the future."

James Monroe concluded his first inaugural with his "fervent prayers to the Almighty that he will be graciously pleased to continue to us that protection which he has already so conspicuously displayed in our favor."

Andrew Jackson, in his first inaugural, expressed his "firm reliance on the goodness of that power whose providence mercifully protected our national infancy, and has since upheld our liberties in various vicissitudes," as an encouragement to offer up his "ardent supplications that

he will continue to make our beloved country the object of his divine care and gracious benediction."

Thus we might go on and notice the inaugural addresses of all subsequent Presidents, in all of which similar acknowledgments of dependence on Almighty God, and recognitions of religion as an indispensable support to good government, are made.

And Gen. Harrison, in his inaugural address, expressed not only his reliance on "that good Being, who has blessed us by the gifts of civil and religious freedom," and "watched over and prospered the labors of our fathers," and "preserved to us institutions far exceeding in excellence those of any other people," but said: "I deem the present occasion sufficiently important and solemn to justify me in expressing to my fellow-citizens a profound reverence for the *Christian* religion, and thorough conviction that sound morals, religious liberty, and a just sense of religious responsibility are essentially connected with all true and lasting happiness."

Nor has this manifestation of dependence upon God and regard for religion been confined to our Presidents. Ample instances might be referred to of other of our distinguished public men doing the same thing. Henry Clay was not ashamed to acknowledge his obligations to God, and on more than one occasion publicly invoked His aid and guidance. In commencing one of his last and great speeches in the Senate, that delivered on the 5th and 6th of February, 1850, on introducing his Compromise resolutions, he said: "I hope it will not be out of place to do here, what again and again I have done in my private chamber, to implore Him who holds the destinies of nations and individuals in His hands, to bestow upon our country His blessing, to calm the violence and rage of party, to still passion, to allow reason once more to resume its empire; and may I not ask of Him too, to bestow on his humble servant now before him the blessing of His smiles, and of strength and ability to perform the work which now lies before him?"

Mr. Everett, the private biographer of Daniel Webster, speaking on this subject, says: "He was a believer in the Great Atonement, &c. \* \* \* He was a student of the Bible, and read it habitually in his family, whenever the annoyances of his official position did not prevent; and never sat down with his family when alone, to enjoy the bounties of his table, without first imploring a blessing. No man ever thought or talked with more reverence of the power or holiness of God." And these representations are sustained by the sentiments expressed in many of his speeches. Thus in his eulogy on Adams and Jefferson, he commenced by saying: "It is fit, that by public assembly and solemn observance, by anthem and by eulogy, we commemorate the services of national benefactors, extol their virtues, and render thanks to God for eminent bless-

ings early given and long continued, to our favored country ;” and again, in his eulogy on his old friend, Jeremiah Mason, we find the following homage to religion :

“ But, sir, political eminence and professional fame fade away and die with all things earthly. Nothing of character is really permanent but virtue and personal worth. These remain. Whatever of excellence is wrought into the soul itself belongs to both worlds. Real goodness does not attach itself merely to this life ; it points to another world. Political or professional reputation cannot last forever ; but a conscience void of offence before God and man, is an inheritance for eternity. *Religion*, therefore, is a necessary and indispensable element in any great human character. There is no living without it. Religion is the tie that connects man with his Creator, and holds him to his throne. If that tie be all sundered, all broken, he floats away, a worthless atom in the universe, its proper attractions all gone, its destiny thwarted, and its whole future nothing but darkness, desolation, and death. A man with no sense of religious duty is he whom the Scriptures describe, in such terse but terrific language, as living ‘without God in the world.’ Such a man is out of his proper being, out of the circle of all his duties, out of the circle of all his happiness, and away, far away, from the purposes of his creation.”

Sentiments like those now proclaimed by many in this country do not accord with the character of a Christian people. Religion has ever been deemed, by all good men, as the surest and safest prop of good government, and the public weal has never been more secure than when entrusted to the guardianship of Christian statesmen, who acknowledged their dependence upon the Ruler of the Universe, and recognized their responsibility to Him for all their acts. William Howitt, whose name and fame extend wherever the English language is known, expressed his views as to the duties of Christians, in relation to government, in a speech delivered at Nottingham, England, in 1835, which may, in this connection, be appropriately quoted :

We are often warned against indulging in politics, as if it were some *sinful* indulgence, like swearing or gin-drinking. The religious warn us with a solemn shake of the head ; and none more than the members of the Society of Friends deal in cautions against this bugbear of politics, “ lest,” say they, “ it disturb the serenity of our minds, lest it unfit us for religious meditation.” Now I am totally at a loss to comprehend the solid ground of these pious exhortations. It is because I *am* religious that I feel myself compelled, irresistibly compelled, to be also political. The very practices of the Society of Friends have educated me in this necessity. One excellent practice they have ; I wish it to be universally adopted, and then we should speedily have a stupendous host of honest, ardent, Christian politicians. It is that of reading every day aloud in the family circle a portion of the sacred Scriptures. I will defy any one to proceed far in the New Testament without coming upon practices and commands of our Saviour, that, if he comprehend their true and practical import, will compel him into a politician. Is it merely that he shall be a spiritual Saviour ? Nay, if we go back to the Old Testament, what is the predicted character of our Saviour ? No, but that he shall be a temporal one too. He is “ to open the prison-doors, to loosen the bonds of the captive, and to let the oppressed go free.” But when we enter on the New Testament, when we come to follow that great object of our reverence

and model of our conduct in this life, and to listen to his commands, there is no alternative left to us. What is the great command of human duty? What is that greatest of all, next to the adoration and zealous service of our Creator? It is to love our neighbor as ourselves. But will any man tell me how we are to love neighbors as ourselves, if we will see them oppressed, made poor, made miserable, made ignorant and criminal by the measures of a bad government, and this not in individual cases, but by thousands and tens of thousands, if we move neither hand nor foot to help them? If we are commanded "to do justly, to love mercy, and walk humbly before God;" if we are again commanded "to do to others as we would be done by;" if, again, we are told that the very mark of distinction of our Christianity is, that "we love one another;" if we are told that, inasmuch as we give but a cup of cold water in the name of Christ to one of his very least disciples, we give it to him; is there, let me ask you, any turn or escape from these great cardinal commands and injunctions? Is there any exception in favor of political crimes and oppressions? The greater the mischief, the greater the need of our assistance; and I will boldly challenge any one to show me any causes or machinery of human suffering, so mighty or prolific as that of bad government. There are those, and that perhaps in nearly every third house, who think that religion consists in cultivating certain inward feelings; in reading certain books, in making certain prayers, and passing through certain forms. This may be a religion of some kind; but I will boldly tell all those who practice it that it is not the *Christian* religion. The religion of Christ is a religion not of negative virtues, but of active, ardent, generous deeds, and sympathies with our fellow-creatures and their sorrows. A religion of inward feelings without outward mark is the religion of monks, let its votaries call themselves what else they will. The religion of Christ led him out into the highways and hedges, into the streets and the market places, and to daily denouncement of public oppressors, as well as to the alleviation of private woe. The religion that is not prepared to attack human evils at their root, and to *prevent* them as much as possible by destroying their causes, has been long ago pronounced to be "a sounding brass and a tinkling cymbal." The man who sees trade destroyed by the mischievous acts of a bad government, and his poor neighbors are suffering all round him in consequence, and does not set heartily to work to reform that government, to endeavor to procure a better system, but, on the contrary, shrinks into his house and his closet, lest he ruffle or excite his feelings, is but acting over again the proud Levite, and leaving it to the good Samaritan to pour the oil and the wine in his neighbor's wounds. In a word, Christianity is not merely a religion of principles, but of consequences; and he who does not dare to look those principles freely in the face, and, without fear of man or devil, of high or low, of unpopularity or personal sacrifice, to carry these divine principles boldly out into their full, direct and legitimate consequences—that man may talk of Christianity, but has yet to learn what it is. *Eng. Lit. of 19th Century*, p. 755.

Many other similar acknowledgments made by prominent public men might be cited, but a superabundance of them have already been quoted, showing that the true patriot, to adopt the beautiful language of Judge Conrad, will regard this as "God's peculiarly chosen and cherished land, and so regarding it, his love and reverence become more intense and holy. His patriotism is religion—his politics religion—his ambition religion. He recognizes the fact—a sublime one—that the equality of the human race—equal rights on earth—an equal destiny in heaven—was first taught by

Christianity ; that the hopes of the republican are dreams, idle, shadowy and fatal, unless sustained by the faith of the Christian ; that the patriotism is false which leans only on earth ; that the ambition is mean which pauses this side of heaven ; that he cannot love his country who will not love his God ; and that—

‘ He is a freeman whom the truth makes free :  
And all are slaves besides.’ ”

Such were the views of the patriots of the revolution. They regarded religion and morality as “the great pillars of human happiness,” and believed it to be the duty of “the mere politician, equally with the pious man” to “respect and cherish them.” They never for a moment indulged in the delusion that “morality can be maintained without religion,” and were fully conscious that there would be no “security for property, for reputation, or for life,” when a “sense of religious obligation” should “desert the oaths which are the instruments of investigation in courts of justice.” And such being their views, they could not regard a Christian character otherwise than a high recommendation as well as important qualification for public trusts ; and so it still is and should be regarded by all good citizens. But it does not follow, that they necessarily looked with complaisance upon the clergy leaving the chosen work to which they were solemnly consecrated, to embark on the stormy ocean of politics and become searchers after political power and distinction.

So far from being in favor of such conduct, on the part of those considering themselves called to the ministry, and solemnly consecrated to its service, they expressly provided in many of the primary Constitutions of the States against it. Thus we find in the New York Constitution of 1777, provided that “whereas the ministers of the Gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions, therefore, no minister of the Gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding, any civil or military office within the State.” So that of Delaware, adopted 1792, contained a similar provision, prohibiting clergymen to hold office while continuing “in the exercise of the pastoral or clerical functions.” The Constitution of North Carolina, formed in 1776, contained a like provision, and so had other States not necessary here to enumerate. A number of the State Constitutions still contain a similar provision. Ministers of the Gospel are not eligible now in Delaware to any office. Nor are they eligible as governors or legislators in the States of South Carolina, Kentucky, Louisiana, Mississippi or Missouri, or as legislators in Virginia, North Carolina, Tennessee, Texas, and some other States.

Recent events, especially in the New England States, considering the large number of clergymen elected to the Legislatures, and the fanaticism which has characterized their legislation, seem fully to confirm the wisdom and propriety of our revolutionary statesmen who inserted such a provision into their primary Constitutions, and to justify the States which will still hold on to their example. "A sagacious patriot will confess to a little trepidation as to the result," says the Rev. Dr. Lord, in a late publication, "when, in sweeping so many political demagogues out of the places they have so long filled, it has swept in so many Protestant, clerical politicians, who, in exchanging the pulpit and their appropriate duties, for noisy debate in legislative halls at various capitals of the States, may yet, mournfully and disastrously for the country, if not for themselves, verify the Scripture which teaches the comparative folly, in their generation, of the children of light."

The views expressed, in the following article of the *Presbyterian Herald*, on this subject, are sound and just, and deserve the careful consideration of all:

"We know that it is plead, that the temporal and eternal interests of men are so blended and bound up together that the one deeply affects the other, and that by promoting the one we advance the other also. This is true, but it is just as true of all man's other temporal interests as it is of politics. If it be a good reason for the clergy embarking on the stormy sea of politics, it is as good for their leaving their chosen work and engaging in any and every other scheme which will promote the temporal welfare of men. There are thousands of good things which a clergyman may not do. The great Head of the church, in assigning to his people their respective work, has gone on the principle of the division of labor. The work of every man must be a good work, but he is not at liberty to quit it and undertake to perform another's task, simply because he sees that, by so doing, he may promote the welfare of men. His field has been assigned him, and that is the place for him to glorify God. The minister of the Gospel has his duties laid off and defined at length, in his commission, and no layman has any right to intrude himself into any of the functions of the sacred office. The laity have their duties defined, also; and the minister may not quit his station of influence, and come down into their province, any more than they may go up into his. Every man is useful and to be respected in his proper place, but when he gets out of it he is not only shorn of his usefulness, but he soon loses the respect of the community. He who stumps it all the week in favor of his own claims to a particular civil office, will not be likely to be listened to with great respect by his opponents on the Sabbath, when he arises to plead the claims of Christ to their hearts' affections. The politician and the preacher will be so completely identified, in their associations, that they will not, even if they could, separate them. How much towards the salvation of a world in ruins would Paul have accomplished, if, instead of determining to know nothing save Christ and him crucified, at Rome, he had taken the stump against Nero, and proved, to a perfect demonstration, that he was the greatest tyrant that ever sat upon a throne, and that his reign was a grand obstacle in the way of the success of the Gospel through his vast empire? He might have proved this with perfect ease, and set the whole empire in a blaze; he might possibly have brought about a great and valuable revolution; but

that was not his work. Christ had commissioned him, not to put down Nero, but to set up his own kingdom in the hearts of men. He has given the same commission to every other true minister of the Gospel. Their work is a high and holy one; let them not neglect it to do one that is infinitely inferior to it. Let their answer to all men, who attempt to seduce them from it, be: 'We are doing a great work for our Master, and we cannot come down;' or, if they have gotten tired of that work, and lost their conception of its vast and unspeakable importance, let them throw off the office altogether, and give it to those who will devote themselves wholly to its sacred functions."

The habit, now becoming so general among Americans, of entrusting the education of their children to foreigners, is another matter deserving no favor, and the practice would be more honored in the breach than the observance. James K. Paulding, in his *Letters from the South*, vol. ii., p. 200, condemns it as follows:

"Thus, if there should happen to be a competition between a native and foreigner for a professorship, or the direction of a grammar school, three to one this disposition to wonder at people from abroad occasions the latter to be preferred, partly because the trustees by whom he is to be chosen, are, for the most part, compounded of materials exceedingly well qualified to be led astray; but principally on account of the old colonial leaven, which is continually rising. The learned Governor —, who was, *ex-officio*, a regent of the University, voted for a Professor of Languages, for no other reason than because he spoke with a foreign accent, which his excellency considered an infallible proof of his being a great scholar. If I wanted a dancing-master, I would certainly prefer a native of France; if a musician, a German or Italian; if a groom, an Englishman; but, with reverence be it spoken, if I wanted a child brought up to love his countrymen above all others; to cherish his country above all other countries; in short, to be an American, I would give him an American for his teacher.

"It is to the want of a salutary preference for such teachers that we may mainly ascribe the tenacity of the ignorant disposition to wonder at every thing from Europe, or from Great Britain. The professors and teachers naturally bring with them all the prejudices and attachments of their youth. They naturally and inevitably instill into the minds of their pupils an inordinate and inflated idea of the learning, science, and institutions of the country where their first impressions were received, and where their last attachments centre.

"They feel no attachment to this country, and, of course, they can implant none; and their pupils are much more likely to imbibe discouraging notions of the superiority of others, than be taught to emulate their science and learning. At the same time that this preference, so mortifying to the neglected scholars of our country, is thus displayed, we find continual complaints made of the want of these professors and teachers among ourselves, forgetting that it is only the hope of fame and reward that inspires the humble scholar to destroy the healthful vivacity of his body in nightly studies. When he finds that others are preferred to him, even the consciousness of superiority is but a feeble support against the neglect of mankind; and the force of example operates upon many others in a similar situation. Genius will thrive amidst ridicule, abuse, and even persecution; but the soil of neglect, like the sands of the desert, neither produces nor brings any thing to maturity. There genius and science wander about, like poor Riley and his companions in the hot desert, drinking their own tears and withering into skeletons under the influence of a fruitless soil, and a sky forever neglecting to rain."

Here is the testimony of one of the most distinguished Democrats in the United States, that "*foreigners bring with them all the prejudices and attachments of their youth*;" that they never shake off the influence and effects of "first impressions," and that their "*last attachments centre*" in the land of their birth. If foreigners should not be entrusted as instructors of youth, still less should they be entrusted to make and administer the laws of a free country. If American citizens should always be selected as instructors of youth, by a still stronger reason should they be chosen to explain and make our laws, protect our constitutional liberty, and carry into effect the spirit of our institutions.

But it is not alone in relation to the Bible, religion and education that the views of European revolutionists, who now fill our country, contrast so strangely and startlingly with those of the patriots of our revolution. We may with profit recur to the principles and precepts of the latter on other subjects, and find the contrast equally as great and startling. Read what Washington says, in his Farewell Address, in relation to the spirit of innovation that has been evoked by those who, failing to reform their own governments, have now graciously undertaken to improve ours :

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you speedily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be incited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country; that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember, especially, that, for the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty, is indispensable. Liberty itself will find, in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each other of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

Thus the subject might be pursued, and quotations *ad infinitum* made from the speeches and addresses of the great and good men whose memories are revered, and whose precepts it is the aim of the American people to follow, to show that the radical and social notions now sought to be engrafted upon our institutions by men of foreign birth do not accord with the principles of those who framed and best understood the character of our government—of men, as has been truly and beautifully remarked by the Rev. Dr. Boardman, in a Thanksgiving Sermon on the Union,



“who were, in truth, not only in advance of their own age, but of all ages, in their ideas of civil government,” and to whom we may apply what Milton has said of the Hebrew prophets; for they appear

“As men divinely taught, and better teaching  
The solid rules of civil government  
In their majestic style,  
Than all the oratory of Greece and Rome;  
In them is plainest taught and easiest learnt,  
What makes a nation happy, and keeps it so.”

The study of American history is a subject which strongly commends itself to every American. If pursued by all, it could not fail to contribute greatly to the cultivation and development of an intense American feeling and sentiment, which would prove an ample safeguard against any and all attempts, made by those who affect a contempt for our existing institutions, to undermine and subvert the Republic established by our fathers, and handed down to us, by them, to be preserved unto our descendants. The Union of these States sprung not from the Revolution, like Minerva from the brain of Jupiter, a goddess complete. Its record may be traced to the Reformation. It begins not with the Revolution, but may be found in the history of the Puritans, and they came out of the very heart of the Reformation. It was the growth of centuries of struggles and discipline; and, while its principles inspired the genius of Milton, and were written with the blood of Hampden and Vane, it was only after years of training that the American colonists had become prepared a people for freemen. British tyranny brought on remonstrance and finally revolution—then came the conflict—then the Confederation—and at last, as the crowning glory of all, the Constitution and the American Union. It has been well said by the eminent divine already quoted, that “he who does not see a Divine hand directing and controlling the whole course of our affairs, from the landing of the colonists at Jamestown and Plymouth until the present hour, would hardly have seen the pillar of cloud and of fire, had he been with the Hebrews in the wilderness.”

No one that believes in a Providence can look at the current of events connected with the settlement of this country, the growth of the Colonies, the struggles of the Revolution, and the formation of the American Union, and not discover therein a revealed purpose of Divine Providence to found a model government in this western hemisphere. Let it then be a source of gratitude and joy to us that we are citizens of it, as well as our chief pride and glory to transmit it unimpaired to our children. And how can we better qualify ourselves for this duty than by studying the precepts and walking in the footsteps of those illustrious heroes and

statesmen whom Providence raised up to establish it? There were giants in those days who stood up against tyranny, and spoke and wrote and fought in defence of human rights and eternal justice. Honored forever be their memory!

How weak and contemptible are the visionary schemes of our modern reformers, who would convert our republican form of government into a radical and irresponsible democracy, when compared with the tried and now well-established principles of Washington, Adams, Jefferson, Henry, Franklin, Jay, Hancock, Madison, Hamilton, and their compeers! They were no ordinary men. No nation can boast of more honorable names, nor more illustrious achievements than those with which they are connected. They had been trained in the school of experience, and, under the blessing of Providence, had been prepared for the high mission devolving upon them. On this point Dr. Boardman is so clear and lucid, and presents the circumstances under which they were required to act, as well as the manner they performed the task, in so just and forcible a manner, that it may not be deemed out of place here to make copious extracts from his very able discourse:

"The concise instrument drawn up and signed in the cabin of the *May Flower*, was the charter of an embryo *Commonwealth*. It recognizes the great principle of equality, and the right and duty of the 'civil body-politic' into which the signers organized themselves to enact, constitute and frame just such equal laws, ordinances, acts, constitutions and offices, as should be thought most convenient for the general good of the colony. This germ expanded. \* \* \* Long before their difficulties with the crown reached their crisis, these ideas had become as familiar to their minds as household words. They were very unlike the prevailing ideas in the Old World. They found no place in the constitutions of the most liberal monarchies. Political equality—popular suffrage—equal laws—the right of the majority to govern—the greatest good of the greatest number as the end of government,—these were principles which, however they might be entertained by individuals, had yet for the first time to be *enacted*, or even recognized by any European monarchy. And when with these principles is combined another of no less importance, that of a representative republic, we shall search in vain for any adequate exposition of their views even among the so-called republics of ancient or modern times. It shows an extraordinary elevation of mind, and a moral courage stamped with true sublimity, that they should have succeeded in divesting themselves of the intolerable thralldom of precedent and authority, and dared to lay the foundations of their new structure on principles which no other government had made trial of, or which had certainly never been tested in such combinations as were now contemplated. These principles alone, however, were suited to the

emergency, and they applied them with a trustful fortitude and a profound wisdom which have never ceased (unless they have *now* ceased) to elicit the gratitude of their posterity, and the admiration of enlightened and liberal statesmen in all lands.

“Without stopping to illustrate these points in detail, let us advert for a moment to that great principle of a representative republic which they invoked to harmonize the conflicting rights and interests of the colonies. Our minds are so familiar with this principle that we are scarcely in a position to appreciate the wisdom which guided the convention to the discovery of it (for it was a discovery), and led them to adopt it as the core of the new Constitution. They were to create a government or governments for the colonies. Putting monarchy out of the question, these plans were before them : First. Consolidation ; the dissolution of the thirteen Provincial or State governments, and a general amalgamation under one republican charter. Secondly. Consolidation in the form of a pure democracy. Thirdly. The organization of thirteen entirely independent governments—republican or democratic. Fourthly. A simple Confederation of thirteen sovereignties.

“These were the only models to be found in the annals of the world. All governments not monarchical had conformed to one or another of these types : and yet the statesmen of the Revolution had the sagacity to see that they were alike either impracticable or utterly insufficient for their purposes. Consolidation was out of the question ; the colonies would not consent to merge their individual existence in a single organization. A pure democracy was impracticable even for the States as such. A democracy requires the periodical convocation of the entire body of the citizens, to conduct its legislation, and is of course admissible only in the case of States comprising a very limited territory. This was a favorite scheme of a party after the war ; and to elude the difficulty just stated, they were for dividing the larger colonies into districts of a tractable size. The creation of thirteen isolated sovereignties would have been the sure precursor and occasion of dissensions and wars. Nor would a simple confederation of such a cluster of sovereignties, the scheme which was advocated by many of the most patriotic and influential men of the nation, have been essentially better. Such a confederation already existed. Its inadequacy was matter of experience. No modification would be of any avail which came short of curing its radical vice, to wit, that of providing ‘legislation for States or governments in their corporate or collective capacities, and as contradistinguished from the individuals of whom they consist.’ So long as this principle was retained, the States might be bound together in a league, but there could be no national union. Nor would a general government be able to enforce its decrees at home or to protect its foreign interests, if the execution

of its mandates were made contingent upon the legislation of other independent sovereignties. A new principle was, therefore, needed to meet the exigencies of the case; and it was found in that of a representative republic. The sovereignty of the several States was left unimpaired in respect to all matters of local jurisdiction, while the Federal Government, springing no less directly than the State governments from the bosom of the people, and operating no less directly upon the people, was clothed with the functions requisite for the efficient administration of all interests appertaining to the general welfare of the republic. Thus was the great problem solved. From the confusion and distraction, the imbecility and exhaustion, the conflicting theories and rivalries, of these emancipated provinces, emerged the Union, clothed with majesty and honor, radiant with celestial beauty, her temples bound with a perennial olive wreath, and her hands filled with such blessings for the expectant people as no nation but God's chosen one had ever dreamed of. Tyrants looked upon her and gnashed their teeth with rage. The patriots of every land hailed her advent as the rising of a second sun in the heavens. The down-trodden nations of Europe found life and hope even in her far-off smile. And, as her magic influence penetrated their dungeons, the martyrs of liberty felt their chains lightened, and blessed God that, although their efforts had failed, one nation had at length established its freedom. It was in truth the triumph, the first great triumph, of CONSTITUTIONAL LIBERTY."

This cursory glance of the Reverend gentleman at our constitutional history demonstrates that, as was well observed by the late Professor Reed, in one of his lectures before the Smithsonian Institute, "this Union of ours was the work of God," and brought into existence "by more than human agency working through centuries," and that for it "our thanksgiving must be laid at the foot of the throne of God." But our gratitude to the noble race of patriots through whose agency it was formed is no less due. When we cease to venerate their heroic patriotism, and to cherish their counsels and precepts, then indeed will integrity, patriotism and virtue no longer be admired among us, and we shall not only be recreant to our country and to ourselves, but deserve the execration of posterity. Let us emulate their noble example, venerate their glorious deeds, study their pure and lofty principles, familiarize ourselves with all their public acts, and we shall become inspired with a passionate attachment to our country, its history and its institutions, which will prove a wall of adamant against all assaults or attempts at innovation, come in what form and from what quarter they may.

In the Bill of Rights of a number of the State Constitutions, is a clause, declaring that "a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty," and it is the

declaration of a maxim, the wisdom and truth of which cannot be gainsaid. There has, however, been a most unhappy neglect of it on the part of the American people, and to that neglect may, in a great degree, be ascribed the prevalence of doctrines so at variance with the fundamental principles on which our government is based. These principles are solemnly and impressively called to our attention in the Farewell Address of Washington, and, if we would be true to them, and to our country, we will not only cultivate and develop them, but omit no proper occasion to proclaim our continued adherence to them. Lord Brougham has said that the reverential regard for the name and character of Washington will be a test, in every country, until time shall be no more, of the advancement of its people in civilization and refinement; and a recent historian of Europe has said, that there is no composition of uninspired wisdom which can bear a comparison to his Farewell Address, and which, it may well be added, will never lose its commanding influence with his country so long as it is worthy to be his. It is, in truth, the standard by which to determine our continued adherence to the great principles of constitutional liberty, and our respect for law, order, right, and wise government; and, to use the language of Robert C. Winthrop, "let us hope that the New World will be slow to undervalue a character and a composition which have challenged such an appreciation from the Old; and let us all beware of attempting to lay any other foundation for our political fabric than that which has been laid by the sword and the pen of Washington."

In that address we have presented to us a summary of the true principles of our government—*THE AMERICAN SYSTEM, as taught by the Father of his Country!* It is, as Joseph R. Ingersoll has truly and beautifully said, "a testament which it would be political heresy to disregard, and moral treason to disobey. Time has not obscured the brightness of its precepts, or the course of events impaired its title to reverence. Its wisdom is demonstrated in the growth and power of the people for whom it was designed. The prosperity of that people this day depends as much upon the observance of its lessons as on the day of their utterance; for they rest on principles of truth and virtue, which are unchangeable and everlasting. Emanating from a heart so pure and a hand so firm and true, this legacy of a now sainted spirit has become the ark of our national safety, and the sacrament of our political faith. Its solemn injunctions cannot be doubted without danger, or departed from except on the verge of destruction." Near a quarter of a century since, Daniel Webster said that he hardly knew how a greater service of the kind could be done to the community, than by a renewed and wide diffusion of that admirable address; and but a few months before his death he again wrote as follows: "Its political maxims are invaluable; its exhortations to

love of country and to brotherly affection among citizens, touching; and the solemnity with which it urges the observance of moral duties, and impresses the power of religious obligation, gives to it the highest character of truly disinterested, sincere, parental, and Christian advice. His pure morals and his deep sense of religious duty form, indeed, the crowning glory of his character."

"These lessons," says Edward Everett, "are, if possible, more important now than formerly. In the infancy of the republic, our very weakness was a protection from dangers, both at home and abroad, to which we are now exposed by the consciousness of our strength." Speaking of it as the gathered wisdom of an eventful life, and as beyond all price, John J. Crittenden said, on a late occasion: "So long as we remember it, it will render our government and our liberties imperishable; and when we forget it, it will survive in the memory, I trust in God, of some other people more worthy of it, even if it be to shame this degenerate republic. That Farewell Address contains wisdom enough, if we but attend to it—contains lessons enough to guide us in all our duties as citizens, and in all our public affairs." And Richard Rush, in a letter addressed to Col. Bissell, dated February, 1852, thus speaks on the same subject:

"The principles embodied in that solemn document have by universal consent become of such peculiar value and magnitude, under national views, that mere words can no longer describe them. We must take results. Combined with Washington's enforcement of them during the first administration of our government, they have been the chief moral cause in making us what we are. We have stood upon them as on adamant. In a wonderfully brief period they have raised us to a high pitch of greatness and glory; only juvenile, however, as yet, but sufficient to have drawn forth the rational admiration of mankind. Had we not adhered to them, there is ample room for the belief that such quick and extraordinary results would never have been witnessed. We owe it, then, to ourselves, if not to the world, whose trustee for the preservation of human liberty we have often desired to be thought, to pause, to reflect, to avoid haste before departing from them in any form. Especially should we be distrustful of taking steps in a new direction, under temporary excitements appearing to be now in operation, some or others of which might not be favorable to the calm exercise of judgment.

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"The study of his character will be the more apt to end in right convictions, the more deeply it is gone into. There is a strength and universality in his principles for governing nations which it is not easy to conceive of any thing human surpassing. They are not for this age or that—for this exigency or that. Duration is written upon them. They will be of force to hold empires together, which would be shivered to pieces under the maxims as under the conduct of a Napoleon. Whilst other men, called great in their day, ground, or sink, in going down the stream of time, his proportions become more visible and grand. Intrinsic superiority entered into every element of his moral and intellectual being. All his passions were so controlled that none of evil tendency ever intruded into the government of his conduct. He secured the deliberate ve-

neration of minds the most exalted and pure. He forever carried with him the confidence and hurrahs of the masses. He was immaculate in honor, inflexible in justice, invariable in dignity. He had resources of wisdom when others were baffled, and of firmness when others were shaken. Kings respected him. The people adored him, his transcendent qualities and deeds being felt by all classes of mankind.

"As tokens of this, if any single ones may be pointed out when the world is so full in all ways of his prodigious fame, may I dare to mention the homage rendered to it on two occasions, omitting others, which it happened to me to witness officially abroad? One of them was in the palace of George III., whose subject our great chief was before becoming the victor over his disciplined and formidable legions in the hard-fought fields of the long war of American Independence. Being in the apartments of that palace as the representative of my country, in the time of the Prince Regent, his son and successor, it was my lot to hear tributes to his extraordinary virtues and illustrious career, from a member of the British royal family, uttered where the assembled ambassadors of Europe might have heard them; and need I add how gratefully they fell upon the ear of an American minister?

"The other instance which, under your permission, I will recall, was more signal, more historical, more illustrative. It was in France, where also I was honored with the representative trust from this our great republic, whose roots have been laid as if for centuries in our soil. And it was in that memorable February of '48, at the epoch of the blessed anniversary you are to celebrate. Then it was that the French monarchy fell at a blow, and a republic was proclaimed upon its ruins. Wild shouts of joy went up from sacked and burning palaces, as their inmates fled for safety through the avenues and bowers of their ancient gardens. Not singly, either, did such shouts go up. Even the sober-minded gave way to hope, as if the heavens had opened with bright and cheering illuminations upon the troubled path of France. So, at first, seemed the vision; and millions wished at first to read in it a golden future for this gallant, powerful and highly advanced people. But when difficulties came, when the shock in Paris vibrated through continental Europe, upheaving the people above thrones, when the struggles of rival interests and passions, the keen clashings of opposite theories and dogmas, the fierce jealousies, and selfishness, and violence, of alternate factions contending for domination, were all seen to be fearfully commingled; when these were revealing how hard is the task of reconciling public liberty with public order, and the security of private rights, in great communities that suddenly throw off their forms of government; when wise and good men were appalled, and knew not what to do, or were jostled and thrown off the stage by the cunning and bad—what was it I then heard? Let Americans remember it, native and adopted, who deem lightly of the work of revolutionizing foreign despotisms, tumbling down European monarchies, or contending at this day from our shores in any manner with transatlantic tyranny. Why, it was under this dark aggregate of accumulated and accumulating perils that I heard, as did others, the master spirit of the Provisional government, Lamartine, say—the man who saved France from torrents of blood by the self-possession, courage, and eloquence of a minute—it was in these terrible times I heard him despairingly say, that 'THE WANT OF THE AGE WAS A EUROPEAN WASHINGTON!'"

## CHAPTER XLII.

## CONCLUSION.

THE writer of these pages, it may not be improper to remark, in conclusion, is not a member of the American Order. Nor would he have the reader to infer, from what has been said in favor of the cultivation of American feeling and sentiment, that he would countenance or uphold the political proscription of any person on account of his religion, or that he believes a religious test, secrecy of action, or oath-bound obligations, to be consistent with the cultivation and development of genuine Americanism.

The free exercise and enjoyment of religious profession and worship, may be considered as one of the absolute rights of individuals, recognized in our American constitutions, and secured to them by law. Civil and religious liberty generally go hand in hand, and the suppression of either of them, for any length of time, will terminate the existence of the other. It is ordained by the Constitution of the United States that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; and the same principle appears in all the State constitutions. The principle is generally announced in them without any kind of qualification or limitation annexed, and with the exclusion of every species of religious test. 2 *Kent*, 32.

It is further provided in the Constitution that "no religious test shall ever be required as a qualification for any office or public trust under the United States;" and it is clear, therefore, that any attempt to apply a religious test is violative of the spirit, if not the letter of the Constitution, as well as of that republican equality which is the very basis of the American government, and ought not to meet with any favor among those who would follow the precepts and principles of their American forefathers, and contribute their might to Americanize America.

Aside of the constitutional principle involved, however, and viewing the matter in the mere light of expediency, every liberal-minded man must concede the propriety of freeing the American movement from any and all religious tests or sectarian distinctions. Political proscription on account of religion, however plausible the pretext, is and always will be, as it deserves to be, obnoxious to men of liberal views and feelings, and will not, and ought not long to be countenanced or sustained by any considerable portion of the American people. The following extract, taken from a pamphlet recently issued, and said to be from the pen of Mr. Sage, of New Orleans, who is himself a member of the American



Order, is directly to the point, and deserves the serious consideration of all true Americans, who are more devoted to their country and its institutions than to the Order of which they are members :

If we admit every thing alleged against Roman Catholicism to be true, still the distinction is a barren folly. It loses many votes, and gains none. All the votes we have received, would have been ours, on the ground of anti-foreignism, while we have lost thousands every where, on the ground of anti-Catholicism.

Such is the unfortunate prejudice against, and fear of, even native Catholics, where they are not known, that persons of that denomination would seldom or never be nominated by either party, even if there were no 8th article, and no obligation. Why? Simply because vast numbers, every where, whose votes are valuable, might be displeased with such a nomination, and might not vote for it, unless the nominee was of the highest character for patriotism and ability, and had given ample proof to the people that he was not actuated by papal influence. Certainly, no one ought to vote against such a one, because of his Catholicism. No one could wish to proscribe a Carroll, a Gaston or a Taney.

If Catholicism should ever become aggressive, the more it should become so, the more the anti-papal prejudices of the people would be aroused, and the less parties would dare to countervail them in their nominations. He is no true politician and statesman, who does not heed the prejudices, feelings, and passions of the people, even though he knows them to be wrong.

But in reality there is no danger at all, of any yielding to papal or priestly influence in political matters, on the part of native American Catholics. The Pope may claim temporal power. What if he does? Satan offered Christ all the kingdoms of the earth. The Khan of Tartary, after he has dined, every day, has a crier to proclaim to the other potentates of the world that they may dine too! The question is, not what the Pope claims, but what the Catholic yields or allows. The truth is, the Pope's claim amounts to mere theory. It can never be effectual, in this country, as long as we educate the masses. The native American Catholic is a part of the sovereignty of the republic. He appreciates the blessings of this government just as the Protestants do, and he wishes to enjoy them himself, and preserve them to his descendants. If he yields to foreign influence—even that of the Pope—in any temporal matter, the liberty and independence of his country is in that degree destroyed; and, moreover, he fears that yielding in one instance will be a precedent fraught with everlasting evil to himself and his posterity. While, therefore, he recognizes the Pope as his spiritual shepherd and king—the vicegerent of Christ—he holds him to the language of our Saviour: "My kingdom is not of this world."

The truth is, that Catholics, bred in this country, are as little likely to be governed by religious or sectarian spirit, in party affairs, as Protestants are.

This is shown in Louisiana and Maryland, the two principal States in the Union containing a large native Catholic vote. We find that they have divided themselves pretty fairly between the two parties, although the American party combatted the temporal power of the Pope, as well as every other foreign influence. And we believe, that but for the honest fear that their religion was involved, the native Catholics of Louisiana would mostly have acted with the American party, for we have no population more thoroughly imbued with the spirit of nativism. But among the foreign Catholics, there has been no division of consequence. They are, however, controlled and arrayed against us, not so much through their religion, as through their ignorance, their unrepugnant views, and their want of true American patriotism. If there is any

danger at all to be apprehended from any Catholicism, it is that which comes in from abroad, mixed with foreign ignorance and vice, and subject to priestly and demagogical control. This we get rid of, or deprive of harmful power, by carrying out the principles of anti-foreignism. The true policy is to cut off the source of supply, and then gradually educate and republicanize the mass we have received. We must keep in view the idea of progression, and human improvability.

But the most serious idea on the score of expediency is, that this distinction induces tens of thousands, all over the country, who have no religion, and whose political garments are loose, and perhaps easily changed, to say: "We agree with you on foreignism, but cannot sanction your religious test."

Moreover, there are thousands in our order, entirely opposed to any discrimination in any way, between native Protestants and Catholics, and who will withdraw from affiliation, if it be not abolished.

But, brethren, suppose the objections we have urged, and many others which might be mentioned, to be untenable; the very fact that the special portion of the eighth article of the Philadelphia platform, is calculated, without the proper gloss, to place the American party in a false position; the fact that it forces us into an interminable politico-religious argument with those who would otherwise agree with us; the fact that it makes people fear that the spirit which prompted its adoption, was one of religious bigotry and intolerance, (for the full extent of partizan feeling is never expressed in a platform;) the fact that it divides us among ourselves, on a question of paramount importance not necessary to the issue; and, above all, the fact that it enables our enemy to bring us to battle on narrow and most disadvantageous fields, so that we can be worried and made to expend our strength and ammunition, before we reach that broad and true field, on which Americanism and foreignism shall be drawn up in battle array, and where we can fight a decisive battle, with ample room and full force, and with a prospect of victory;—these facts alone, we say, should determine us to discard this test or distinction, as well as every thing else but nativism;—for on this we are all agreed; and any thing else might cause dissension.

✓ We say, then, to our brethren of the other States, let us confine ourselves to anti-foreignism, which we all agree upon; and not meddle with what will cause dissension among us. By carrying out this principle, we affect the only class of Catholics that we need fear—if there are any such—we mean foreigners, who are ignorant, vicious, bigoted, and politically controllable by priests—controllable not so much through their religion, as through their ignorance. At all events, this one issue is an all-sufficient basis for a party—as was the same issue for our fathers in the Revolution; and its importance should prompt every patriot to desire that it should be disencumbered, and presented nakedly to the American people.

Equally obnoxious are, and ever must and will be, all efforts to cultivate and develop American sentiment and feeling, by means of secret and oath-bound political organizations. Publicity is the very first necessity of republicanism; and if those engaged in the attempt to redeem American institutions from foreign influence, would speedily accomplish their laudable and patriotic object, they must do so in the true spirit of Americans and with republican means. They must move in an American manner, with an open organization, permitting the light of day to shine upon all their acts, and not by adopting the very system and the

use of the very instrumentalities of those whose power and influence they seek to curtail and destroy. Secret confederacies, especially for political purposes, are of foreign origin, and should meet with no countenance nor support from those who are Americans by birth, and republicans in feeling and sentiment.

The warning voice of Washington, in his Farewell Address, on this subject, cannot be disregarded, without departing from his principles and precepts, and coming in conflict with the true principles of our government. "All combinations and associations," says he in that memorable document, "under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force—to put in the place of the delegated will of the nation, the will of a party, often a small but artful and enterprising minority of the community; and according to the alternate triumphs of different parties to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common councils and modified by mutual interests." And he continues further, and says: "However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reigns of government—destroying, afterwards, the very engines which had lifted them to unjust dominion."

Exclusiveness, secrecy, and implicit oath-bound submission are a reproach to Americanism, and savor too much of the leading characteristics of foreign Jesuitism ever to become popular in a nation of liberal-minded and enlightened freemen, who are regulators of their own thoughts, masters of their own actions, and vindicators of their own manhood. They are foreign to the genius of free institutions, at variance with the spirit and character of our government, and cannot be moulded by any false movement of expediency into a republican principle. They can never be blended, and never ought to be, with republicanism, so as to be productive of public good. True devotion to country and its institutions needs no such aid of foreign origin. Americanism can, without such means, stand before the world as it really is—the panoplied champion of the sacred heritage of freedom.

The following views, expressed by A. B. Ely, Esq., of Boston, himself a prominent member of the American Order, in a recent speech at New

York, are directly to the point, and deserve the serious consideration of all who would put an end to foreign influence :

"The influence of *one* man, with high, holy and patriotic motives, is something, and worth something in politics. The influence of *two* such is something more, even though they may act in different spheres. Bring them to act together, and their power for good is even greater. Unite the influence of many, and they will accomplish what they could hardly have attempted separately and apart." So we believe that if Americans will unite together for the purpose of carrying out the great and glorious principles of our party, we can do our country some service, and exert a united, healthful influence, that, whether it tell socially or politically, will tell honestly and patriotically, and for the good of all.

Can such a union be brought about while we continue to be a secret organization ? I venture the opinion, no ! It is well known that when public bodies, more particularly political bodies, close their doors against the admission of others, and transact their business with secrecy, that there is wrong somewhere, or their actions will not bear the scrutiny of the world. We are not a set of men who wish to accomplish our ends by taking advantage of the ignorance of others, nor are we ashamed of the means we take to accomplish those ends. Why then do we close our doors ? Why do we exclude all but the initiated ? Why do we debar those who are Americans in feeling from participating in our debates and plans ? Is it to be wondered, sir, they refuse to support our candidates, when they are not permitted to raise a voice in their nomination ? Rather, by far, would they stay from the polls, declining to vote at all, than to support men, though advocating the same principles, in whose election as a candidate they had no control.

A secret organization, such as that by which Americanism has been disseminated, is, under ordinary circumstances, a dangerous form of political action. It was intended to meet the cunning of Jesuitism, and the insidious policy of foreign despotism—to fight in the dark, and with the same weapons, the agents of the Pope and his cardinals. The success that has attended such a course is known to all.

It was not long before the secret enemy we were fighting was in our midnight councils, taking part in our debates, helping us to mature our plans, and reporting to their Jesuitical employers.

Now that we find we have proceeded in error, it is our duty and safety to alter our course, and adopt a better mode of organization—leaving all collateral matters of religion and sectionalism out of the question, and leaving Jesuits to take care of themselves. Fill our offices with Americans, and we have no fear of enemies at home or abroad. We will then, like the wise man, have built our house upon a rock whose foundation is strong enough to contend with the elements.

Then might the world resound the echo, that "Americans must and shall rule America."

Foreign influence is a great and an acknowledged evil—the bane of a republic—and against its "insidious wiles," we are taught by Washington, "the jealousy of a free people ought to be constantly awake." The history of the past and the experience of the present justify the demand of Americans for America. During the elevation and splendor of the Athenian power, the privilege of citizenship could only be obtained in

Athens by the consent and decrees of two successive assemblies of the people, and then only was granted to those of the highest reputation, or who had performed some signal service to the republic. So, too, the Romans were noted for their peculiar jealousy of the *jus civitatis*, or rights of a citizen. The freedom of the city was given with a sparing hand, and, as we are told by Gibbon, it was only when Caracalla levelled all distinction, and communicated the freedom of the city to the whole Roman world, that the national spirit was lost among the people, and the pride of the country was no longer felt, nor its honor observed.

*Americanism* is no new principle. As was well remarked by Henry W. Miller, Esq., of North Carolina, in a speech at Norfolk, its prototype "was with the children of Israel in the Red Sea; with Armodius and Aristogiton in expelling the thirty tyrants from Athens; with Demosthenes against Philip of Macedon; with Cato at Rome; with Cicero against Cataline, and for the Republic; with the dagger of Brutus in slaying the tyrant Cæsar; with the bold Barons at Runymede, when they obtained Magna Charta from King John; with Luther, Calvin and Knox; with Latimer and Cranmer, when burned at the stake; with the Pilgrims, when they landed on Plymouth Rock; with the patriots of '76, at Lexington and Bunker Hill; with Patrick Henry, 'the forest born Demosthenes,' when he exclaimed, 'Cæsar had his Brutus, Charles the First his Cromwell, and George the Third may profit by their example—if this be treason, make the most of it;' with Jefferson and the signers of the Declaration of Independence; and with Washington at Monmouth, Trenton, and Yorktown."

THE END.

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